

NAVAL POSTGRADUATE SCHOOL

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THESIS

ANALYSIS OF THE ANTIDEFICIENCY ACT IN THE DEPARTMENT OF THE NAVY

by

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June 2002

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**ANALYSIS OF THE ANTIDEFICIENCY ACT IN THE
DEPARTMENT OF THE NAVY**

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ABSTRACT

The Department of the Navy budget is expanding from \$96.1 billion in 2001 to an expected \$108.3 billion in 2003. It is important that in our pursuit of scarce dollars, the people who provide us the money trust that we will be good stewards of the money. Negative public and Congressional perceptions jeopardize Navy funding. As responsible stewards of taxpayer dollars, we must strive to obtain the optimum use of our available resources, within the limits of the law. Congress implemented a series of laws designed to prevent government officials from spending the taxpayer's money in a manner that Congress did not intend. Collectively, these laws are referred to as the Antideficiency Act. Execution of the budget contrary to the Antideficiency Act is a violation of federal law. Each violation damages the public perception that the Navy is a good steward of the taxpayer's dollar, which could influence the amount and the degree of Congressional control and oversight of future funding. Hence, it is imperative that the Navy provides proper training, implements effective internal controls, and raises the level of awareness of Antideficiency Act violations in an effort to reduce the number of future violations. This thesis analyzes data from 62 Antideficiency Act formal investigations for the period 1987 to 1997. The data were analyzed to detect trends in the number of investigations over time, the most frequent legal statutes violated, the causal factors that led to violations, trends in the investigative process, and the equity and effectiveness of the disciplinary action taken with each violation. Based on the conclusions drawn from the data analysis, recommendations on improving training, internal controls and methods to raise awareness were formulated that should reduce the major causal factors of Antideficiency Act violations.

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I. INTRODUCTION

A. OVERVIEW

Every year the Department of the Navy (DoN) expends enormous resources developing a budget and competing with other federal agencies for scarce taxpayer-dollars to execute its mission. It is important that in our pursuit of scarce dollars, the people who provide us the money trust that we will be good stewards of the money. Negative public and Congressional perceptions jeopardize Navy funding. As responsible stewards of taxpayer dollars, we must strive to obtain the optimum use of our available resources, within the limits of the law.

Integral to this process is defining how much money is needed to execute our assigned mission, and telling Congress what we are going to spend the money on and at what rate we plan on spending the money. Learning from previous mistakes dating back to the 19th century, Congress implemented a series of laws designed to prevent government officials from spending the taxpayer's money in a manner that Congress did not intend. Collectively, these laws are referred to as the Antideficiency Act. Execution of the budget contrary to the Antideficiency Act is a violation of federal law.

This study examines the Department of the Navy's sixty-two Antideficiency Act violation formal investigations from fiscal year 1987 through fiscal year 1997 and analyzes the data from each of these investigations. Antideficiency Act violations are analyzed from a systems perspective by examining the series of processes that make up the system. First, the thesis outlines what constitutes an Antideficiency Act violation. It then provides an overview of the flow of money from the United States Treasury to the lowest legally accountable echelon, highlighting where Antideficiency Act violations occur and the type and causes of the violations. From there an explanation and analysis of the investigative process is provided from the point of the preliminary investigation to its conclusion where letters are drafted and delivered to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives.

After the system and processes are understood, an analysis of the formal training courses provided by the DoN and case-specific data is conducted to show where improvements can be made and further types and amounts of training should be

conducted in order to reduce the number of violations. The closing summary highlights the findings and recommendations of this study.

B. BACKGROUND

The starting point for any discussion of the Antideficiency Act is the appropriations clause in Article I, Section 9, clause 7 of the United States Constitution. It requires that “no money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.” This clause flows from the basic “power of the purse” granted in Article I Section 8, authorizing Congress to “pay the debts and provide for the common defense and general welfare of the United States.”

The Antideficiency Act is actually a series of laws whose objective is to bind the executive branch of government to the limits on expenditures of appropriated funds. Its terms, as they have evolved, address a problem that was especially significant in the 19th century: agencies would use up their budgets before the end of the year so that, faced with the prospect of federal government operations being suspended, Congress might feel coerced to make up the deficiency. Although complex in operation, the basic principle of the law, as the U.S. General Accounting Office (GAO) reports, is simple: “Government officials are warned not to make payments – or to commit the United States to make payments at some future time – for goods or services unless there is enough ‘money’ in the bank to cover the cost in full. The ‘bank’ of course is the available appropriation.”¹

In addition to preventing overspending at the total appropriation level, it also prevents overspending official administrative subdivisions of appropriations known as apportionments. The laws have been in existence for over a century, yet leaders and decision makers with uncompromising integrity, advanced education, and proven professional aptitude continue to commit Antideficiency Act violations on a surprisingly large scale.

The Antideficiency Act consists of three sections of Title 31 of the United States Code: Sections 1341, 1342 and 1517. These three laws define how a person can commit an Antideficiency Act violation.

¹ GAO Principles of Federal Appropriations Law, “Red Book”, Second edition, 1992, chapter 6, pg 11.

Section 1341 of Title 31 defines limitations on expending and obligating amounts. Specifically, it states, “An officer or employee of the United States Government or of the District of Columbia may not:

(a) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;

(b) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law;

(c) make or authorize an expenditure or obligation of funds required to be sequestered under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

(d) involve either government in a contract or obligation for the payment of money required to be sequestered under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.”²

Section 1342 forbids the acceptance of voluntary services. Specifically, it states that “An officer or employee of the United States Government or the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. This Section does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.”³

Section 1517, the most violated of the three codes that constitutes the Antideficiency Act, forbids the over obligation and expenditure of an apportionment or an amount permitted by a regulation prescribed for the administrative control of apportionments.⁴

As with other laws in our society, there are consequences for violating the Antideficiency Act laws. Violations of the Antideficiency Act should not be taken lightly. “In accordance with Sections 1349 and 1518 of Title 31 of the U.S. Code, an officer or employee violating Sections 1341(a), 1342, or 1517(a) of Title 31 shall be

²Legal Information Institute, Cornell University, <http://www4.law.cornell.edu/uscode/31/1341.html>.

³ Legal Information Institute, Cornell University, <http://www4.law.cornell.edu/uscode/31/1342.html>.

⁴ Legal Information Institute, Cornell University, http://www.dtic.mil/comptroller/fmr/14/14_02.pdf.

subject to appropriate administrative discipline, including—when circumstances warrant—a written reprimand, suspension from duty without pay, or removal from office.

“In addition, in accordance with Sections 1350 and 1519 of Title 31 of the U.S. Code, an officer or employee convicted of willfully and knowingly violating Sections 1341(a), 1342, or 1517(a) of Title 31 shall be fined not more than \$5,000, imprisoned for not more than two years, or both.”⁵

Moreover, if an officer or employee is found guilty of violating the Antideficiency Act, whether it was done knowingly or not, a written report with the responsible persons’ names, the nature of the violation, and assigned punishment is sent to The President of the United States via the Director of the Office of Management and Budget (OMB), the President of the Senate, and the Speaker of the House of Representatives.

C. RELATED LAWS

Although not considered part of the Antideficiency Act, there are several laws that are related to the Antideficiency Act. The three laws that, if violated, most often lead to a 1341(a) or 1517 violation are Sections 1301(a) and 1502 of Title 31 and Section 2805 of Title 10 of the U.S. Code.

Section 1301 (a) states that “Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.”⁶ This is often referred to the “color of money” statute, which says that government officials have to spend appropriated money for the purpose that Congress states in the appropriation bill.

Section 1502 is often referred to as the “bona fide needs” statute. It states that “The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with Section 1501 of this Title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.”⁷

⁵ DODFMR, Vol. 14 page E-1, <http://www.dtic.mil/comptroller/fmr/>.

⁶ Legal Information Institute, Cornell University, <http://www4.law.cornell.edu/uscode/31/1301.html>.

⁷ Legal Information Institute, Cornell University, <http://www4.law.cornell.edu/uscode/31/1502.html>.

The third law that is related, and often leads to violations of the Antideficiency Act is Section 2805 of Title 10 of the U.S. Code. It is often referred to as the “minor construction statute” because it sets the limits on spending thresholds for Operations and Maintenance, Navy (O&M, N) and Military Construction (MILCON) money for minor construction projects. It stipulates that “Except as provided in paragraph (2), within an amount equal to 125 percent of the amount authorized by law for such purpose, the Secretary concerned may carry out unspecified minor military construction projects not otherwise authorized by law. An unspecified minor military construction project is a military construction project that has an approved cost equal to or less than \$1,500,000. However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, an unspecified minor military construction project may have an approved cost equal to or less than \$3,000,000. A Secretary may not use more than \$5,000,000 for exercise-related unspecified minor military construction projects coordinated or directed by the Joint Chiefs of Staff outside the United States during any fiscal year. An unspecified minor military construction project costing more than \$750,000 may not be carried out under this section unless approved in advance by the Secretary concerned. This paragraph shall apply even though the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies. When a decision is made to carry out an unspecified minor military construction project, the Secretary concerned shall notify in writing the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by the committees.”⁸

D. RESEARCH QUESTIONS

1. What are the trends in the frequency and type of Antideficiency Act violation investigations in the Department of the Navy from fiscal year 1987 to fiscal year 1997?

⁸Legal information Institute, Cornell University, <http://www4.law.cornell.edu/uscode/10/2805.html>

2. What are the predominant causes and types of Antideficiency Act violations?
3. What are the primary DoN areas within which violations occur most frequently?
4. What DoN training course(s) need revisions to help reduce the number of Antideficiency Act violations?
5. Where in the training pipeline, flow of monies, and the investigative process should the Department of the Navy focus its efforts for improvement to reduce Antideficiency Act violations?
6. Does the DoN distribute discipline to those who violate the Antideficiency Act in a fair and equitable manner?

E. SCOPE OF THE STUDY

This study is limited to a review of the number and types of ADA violations that were investigated from fiscal year 1987 through fiscal year 1997. Although data exist for violations that came under investigation in fiscal year 1998 to the present, many remained under investigation as of February 2002, and could not be included in this study because their outcomes had yet to be determined.

The original objective included gathering detailed data on the personnel trained and comparing it to the list of those who were held responsible for Antideficiency Act violations to see if there was a correlation between training and those who commit the violations. However, the data were not available for the time period covered in this study. In subsequent chapters, the training courses will be analyzed by the scope and depth of coverage of the Antideficiency Act and the rank and grade of the students who attend particular courses. The courses will then be compared to the list of those who were held responsible for violations, and the type and cause of the violation to determine what course needs more emphasis on certain aspects of the Antideficiency Act.

F. METHODOLOGY

The research methodology includes the following:

1. Literature Review

A review of the pertinent Articles in the United States legal code, Navy and GAO regulation manuals, and professional literary articles was conducted to ensure the most

current laws and regulations were included in the study. A review of the Navy's entry-level, mid-level, senior-level, financial management courses and programs was conducted to determine if recommendations for improvement of the training process can be made.

2. Data Collection

Historical data from formal case investigations from fiscal year 1987 through fiscal year 1997 were obtained from the case files located in the office of FMB-5 at the Navy Annex in Arlington, Virginia. Each case file was reviewed and all pertinent data were extracted and put in a synopsis of each case file. The data from each synopsis were entered in a database and spreadsheet format for final analysis.

3. Analysis

Data obtained were examined to identify any significant trends, unusual occurrences, and relationships between variables. It is important to realize that in many cases the year that the ADA violation occurred is not the same year that it is investigated. This study breaks the data out using both categories, but focuses on the year the formal investigation was initiated for trend analysis.

G. OUTLINE

This thesis is organized as follows:

Chapter I: Introduction. This chapter provides a brief overview of the origin, definition and contents of the Antideficiency Act and related laws. Included is an explanation of the thesis problem or concern, the associated research questions, this outline, and benefits of conducting this study.

Chapter II: System definition and process analysis. A thorough description of the flow of monies and investigative process are defined. This, combined with a description of the training programs, internal control mechanisms, and an understanding of actions that can cause a violation of the Antideficiency Act from Chapter I establishes the framework for the analysis phase of the study.

Chapter III: Data Analysis. A complete analysis of the data from all 62 formal investigations is conducted so the weaknesses in the flow of monies and the financial training programs can be identified. This study also determines if fair and equitable discipline is awarded throughout the DoN.

Chapter IV: Conclusions and Recommendations. Based upon the results of the analysis in chapter three, certain conclusions are drawn and recommendations on ways the DoN can increase awareness and improve training in order to reduce the number of Antideficiency Act violations are made.

Appendix: All the data are presented in tabular format and tables used in the analysis portion of the analysis are located here for reference. Due to the large size of the tables, they were placed here to improve the flow of the thesis.

H. BENEFITS OF THE STUDY

This study highlights the frequencies and causes of Antideficiency Act violations within commands of the Department of the Navy. It determines the relationship between the violations and the cause of the violations to provide a better understanding of the past experiences. This allows Navy leaders and decision makers to review the current flow of money and ADA investigations from a systems perspective and implement changes in the appropriate process. These changes may entail examination of training programs, improvements in internal controls, or new directives to personnel that will result in a reduction of Antideficiency Act violations in the future.

II. SYSTEM DEFINITION AND PROCESS ANALYSIS

A. FLOW OF FUNDS

In order to fully understand the differences in types of Antideficiency Act violations and how to make improvements to reduce violations, it is important to understand the system in which they occur. This study will consider the flow of funds, starting with the Treasury Department's issuance of an appropriation warrant to OMB down to the issuance of an OPTAR (operating target) or allotment at the lowest end, as the system. Integral to the success of this system running smoothly are the proper implementation of internal controls, and the proper training delivered to the proper people at the proper point in their career in an effective manner. Equally important are the investigation and enforcement techniques used to set and enforce the boundaries within which the system operates.

As demonstrated in Figure 1 below, when the Department of Defense (DoD) appropriation bill is signed by the President of the United States and passed into law, the Treasury of the United States issues an appropriation warrant to the Office of Management and Budget (OMB). An appropriation warrant is a document that establishes the amount of funds authorized to be withdrawn from the Treasury central accounts.

OMB apportions the appropriated funds to the Undersecretary of Defense Comptroller (USD (C)). USD(C) then allocates the appropriate funds to each branch of service according to the President's budget. The Navy receives its allocation through the Assistant Secretary of the Navy (Financial Management and Comptroller) (ASN (FM&C)). ASN (FM&C) further allocates the funds to the Responsible Offices (i.e. Chief of Naval Operations (CNO), Commandant of the Marine Corps (CMC), etc.) Allocation is the mechanism by which the funds are controlled below the appropriation level to ensure the intent of Congress is met.⁹

⁹ Practical Financial Management: A Handbook of Practical Financial Management Topics for the DoD Financial Manager, p.63.

The Responsible Offices then allocate these funds to the Administering Offices, as applicable, and the Major Claimants such as CINCLANTFLT. The Major Claimants receive their funding in the form of an Operating Budget or Allotment.

At this point Operating Budgets or Allotments are issued to subordinate commands. Operating Budgets and allotments are normally levied with Title 31 Section 1517 responsibility. Further subdivisions below the Operating Budget level such as an Operating Target, Allowance or Expense Limitation, are planning estimates; therefore, the grantor retains the Title 31 Section 1517 responsibility.

Antideficiency Act responsibility goes from the appropriation level down to the Operating Budget/Allotment level, including apportionments and allocations. The grantor of the fund authorization will determine if Title 31 Section 1517 responsibility will be levied and will specify such on the funding authorization document.

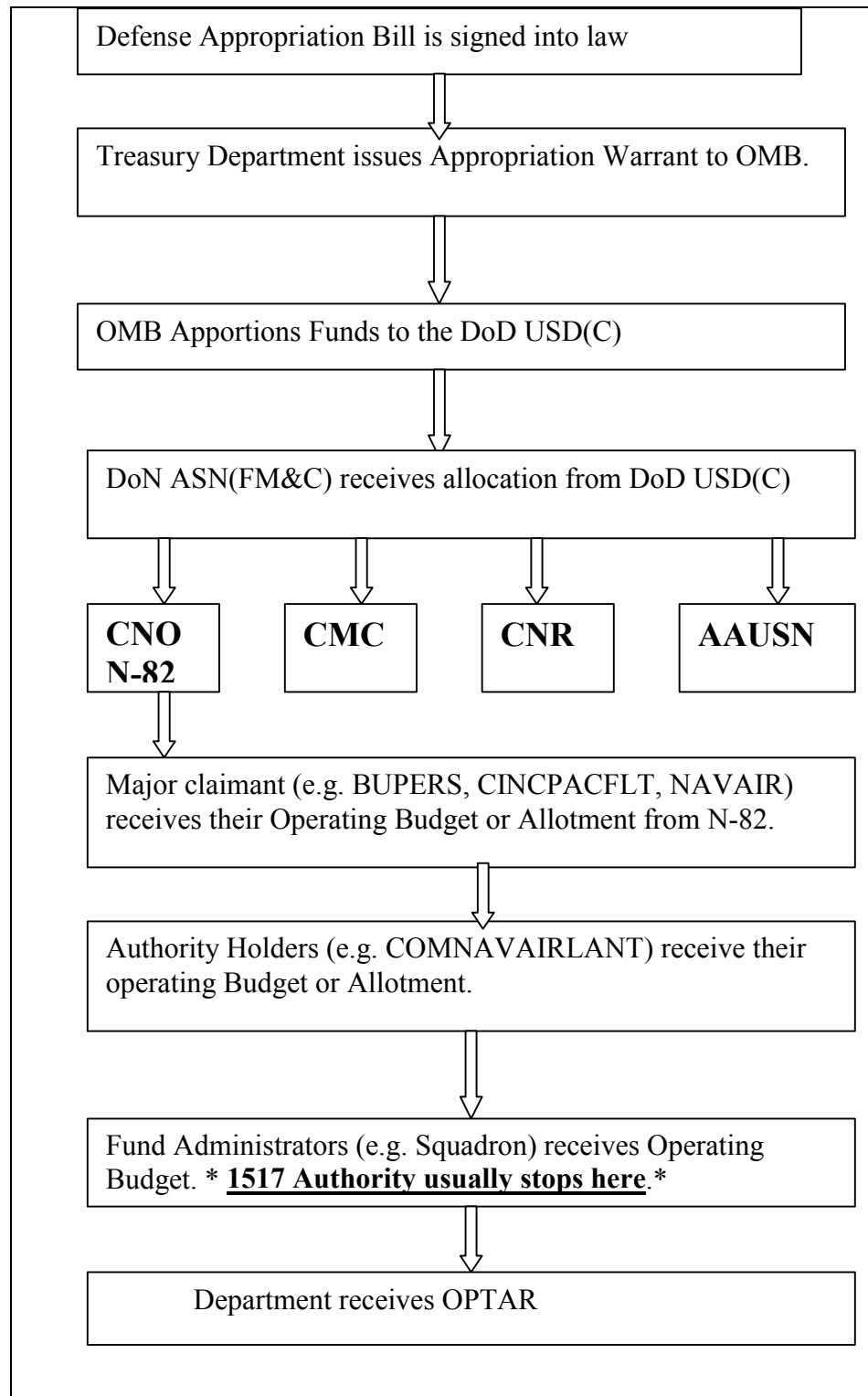


Figure 1. Flow of Funds

B. EDUCATION AND TRAINING

Training and education, followed up with constant awareness, are two of the keys to preventing violations from occurring. The analysis of formal investigations of Antideficiency Act violations for an eleven-year period will illuminate more specifically where in the system people need to receive more training, and what learning objectives need more emphasis.

The Naval Financial Management Career Center (NFMC) was established to manage ASN (FM&C) sponsored programs and training courses for Navy and Marine Corps personnel; to coordinate developmental projects to improve financial management education and training; and to improve communication and disseminate current information within the financial community.

NFMC consists of two program divisions: Civilian Financial Management Career Program (CFMCP), and Centralized Financial Management Trainee Program (CFMTP). The CFMCP offers three entry-level financial management courses: Principles of Navy Budgeting (PNB), Introduction to Navy Financial & Managerial Accounting (FMA), and Introduction to Navy Working Capital Fund (NWCF). These courses are offered to civilian government employees at grades GS-5 through GS-11, and to military personnel in the financial community. The Antideficiency Act is discussed in each of the three courses to the extent that the student understands what constitutes a violation of the Antideficiency Act, that it is a violation of a federal law, and that it carries criminal charges if committed knowingly and purposefully. Examples of historical violations are often discussed to enhance the learning point.

CFMCP also offers six mid-level management courses: MWCF Professional Managers Course (ProCAP course), Practical Comptrollership Course (PCC), Marine Corps Practical Comptrollership Course (MCPCC), Professional Military Comptroller School (PMCS), SECNAV Civilian Fellowship Program in Financial Management, and a DOD Graduate Level Financial Management Program (GLFMP). These courses are offered to government service civilian employees and military personnel who have some experience in government financial management. Many of these courses give civilians at the GS-9 and military at the O-2 level and above priority for enrollment.

The first four courses are DoN sponsored and they discuss the Antideficiency Act in great detail. Most of the courses study actual and theoretical violations of the Antideficiency Act that occurred in the DoN. The two graduate level courses discuss the Antideficiency Act as well, but the scope and depth of detail varies according to the educational institution and courses offered.

For senior-level managers, there is the Professional Military Comptroller School course and the three-day fiscal law course conducted by the General Counsel for the Assistant Secretary of the Navy at various commands across the country. This fiscal law training covers the basic concepts of appropriation law. The class reviews casebook examples of potential and actual Antideficiency Act violations. Course discussion focuses on where, when and why these violations occurred.

The entry-level and mid-level courses were developed and implemented in the mid to late 1970's. They were the result of a DoD and DoN study of financial management development during the mid 1970's. These dates cover the time period of this study.

C. INVESTIGATION PROCESS

A violation may be discovered through procedures established within a command, or through either an internal or external audit. Once a potential violation is discovered, it has to be investigated. The investigation process can be broken down into three distinct phases; the preliminary review, the formal investigation, and the report to the President and the Congress. Figure 2, below, illustrates the investigative process and associated timeline requirements.

1. Preliminary Review

The purpose of the preliminary review is to gather basic facts and determine whether a violation has or has not occurred. When the office of the USD(C) is notified of a potential violation by an audit report or otherwise learns of a potential violation, the Navy or Marine Corps has 90 days to conduct a preliminary investigation.

Once the preliminary review report has been completed and the findings indicate a potential violation, a formal investigation shall be initiated within 15 business days of the approval of the report. If the results of the preliminary review indicate that no

violation has occurred, the preliminary review report completes the actions regarding the potential violation and no further action is required after the report is approved.

2. Formal Investigation

The purpose of an investigation of a potential violation of the Antideficiency Act is to determine what happened, what were the causes, who was responsible, what actions should be taken to correct the current situation, and what actions should be taken to ensure that a similar violation does not occur in the future. Investigations of potential violations, including the submission of the final Summary reports to the office of the USD(C) shall be completed within 9 months.

If the results of a formal investigation determine that there was no violation, the investigation report must be reviewed by the USD(C) and the office of the Deputy General Counsel (Fiscal) (ODGC(F)) for review. If they both concur with the finding of “no violation,” then no further action is required. If they do not agree with the finding of “no violation,” the investigation will be reopened and will proceed until the investigating officer can provide additional documentation to support a “no violation” conclusion, or determine that a violation did occur.

3. Report to the President and the Congress

The office of the USD(C) reviews the summary report of violations for completeness, clarity, compliance with the reporting requirements, and adequacy of corrective and administrative disciplinary action taken. If the USD(C) office is not satisfied with the report, it will return the report to the ASN (FM&C) for correction and resubmission within a specified time period.

Once the office of the USD(C) is satisfied with the report, it will prepare notification letters to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives. These letters notify the President and the Congress of the violation, the nature of the violation, the names of the persons responsible for the violation, and the disciplinary action taken.

According to Chapter 5, Volume 14 of the DoD Financial Management Regulation, “The total process for investigation and reporting potential violations of the Antideficiency Act shall not take more than 1 year from the date of discovery through the

preparation of transmittal letters to the President, the Director of the Office of Management and Budget, and the leaders of both Houses of Congress.”¹⁰

The Secretary of the Navy or ASN (FM&C) may approve an exception to the time frames mentioned. However, the USD(C) must be notified of any extension that is approved and provided justification for that extension. Any extension granted shall not allow the time for completing the entire investigation to exceed one year from the day the investigation began.

¹⁰ Department of Defense Financial Management Regulation, Vol.14, ch.5, pg 5-1. (Mar, 2001).

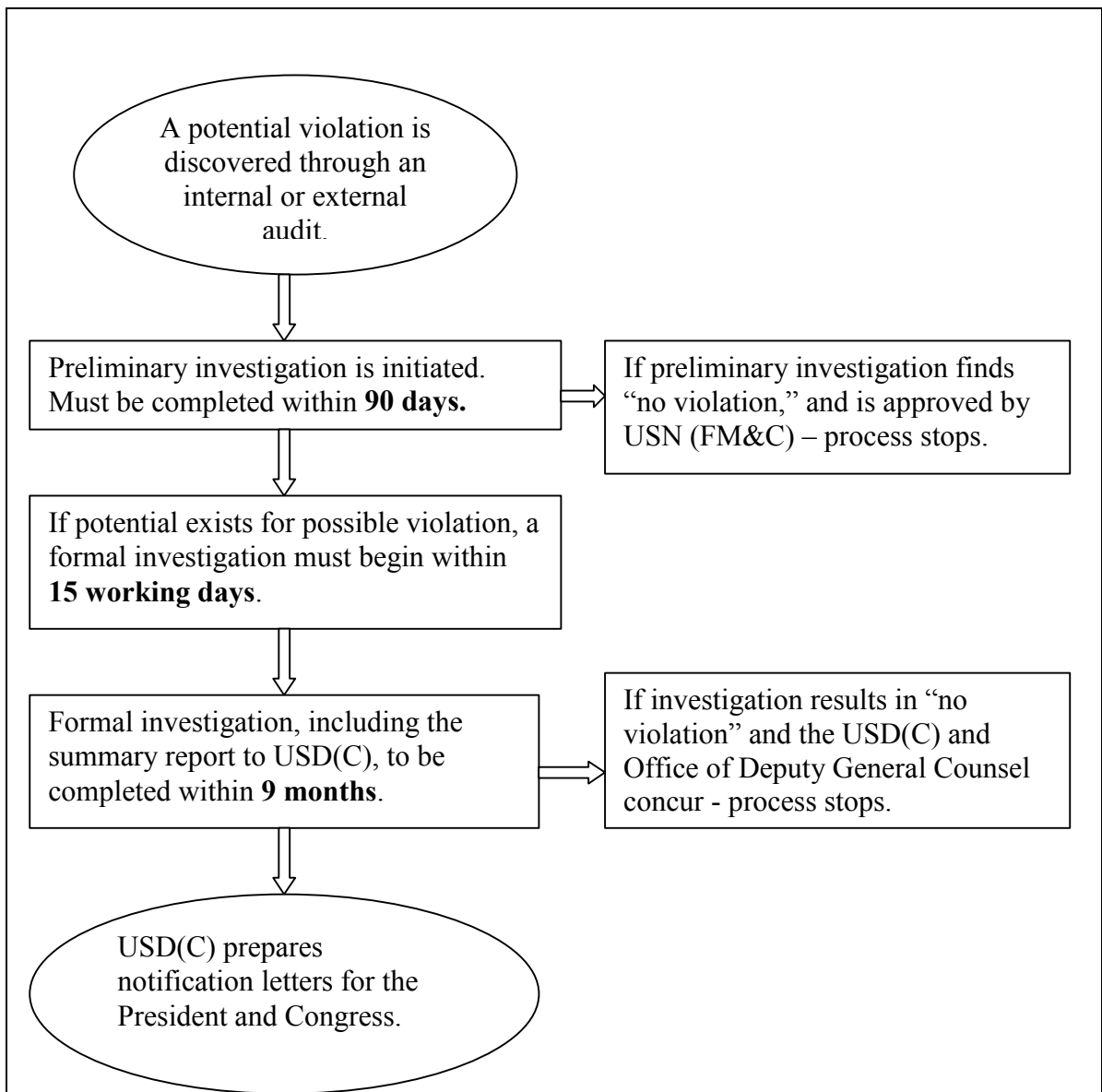


Figure 2. Investigation Process

D. INTERNAL CONTROLS

The implementation and execution of proper internal controls is vital to the reduction or elimination of Antideficiency Act violations. Internal controls can be thought of as a system of checks and balances that are used within an organization to ensure that the rules and regulations that establish process boundaries are being followed. According to the Federal Managers' Financial Integrity Act of 1982, the GAO is

responsible for issuing standards for internal control with regard to financial management matters. The first standards were issued in 1983, and became widely known as the “Green Book.” Since then, changes in information technology, and requirements of recent financial management-related legislation have prompted renewed focus on internal control. Consequently, GAO revised the standards and reissued them in November 1999 as “Standards for Internal Control in the Federal Government.” These standards provide the overall framework for establishing and maintaining internal control and for identifying and addressing major performance challenges and areas at greatest risk for waste, fraud, abuse or mismanagement.

To keep Antideficiency Act violations to a minimum, federal managers and leaders need to continually assess and evaluate their internal control structure to assure that it is well designed and operated. Specifically, managers and leaders need to examine internal control to determine how well it is performing, how it may be improved, and how it corresponds to the five standards for internal control: control environment, risk assessment, control activities, information and communications, and monitoring.

E. CHAPTER OVERVIEW

This chapter provided background information on the flow of appropriated and apportioned monies in the DoN, an overview of the training courses offered to members of the financial community, a description of the investigative process for Antideficiency Act violations, and highlighted the importance and role of internal controls in conducting financial transactions in the DoN.

Knowledge of the flow of monies, training programs, and the importance of internal control mechanisms are essential before conclusions can be drawn from any analysis. This knowledge combined with an understanding of the actions that can trigger a violation of the Antideficiency Act from Chapter I are essential to establish the framework for the analysis phase of the study found in Chapter III and the conclusion and recommendations developed in Chapter IV.

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III. DATA PRESENTATION AND ANALYSIS

The data gathered during this study and presented below covers all of DoN's formal investigations from fiscal year 1987 through fiscal year 1997. Each case file was reviewed and all pertinent data were extracted and a synopsis of each case file was prepared. The data from each synopsis were then entered into a database and spreadsheet format for final analysis. The data are displayed in tabular format in Appendix A.

It is important to note that the year in which an Antideficiency Act occurred is often not the year in which it was investigated. Investigations lagged the year of violation on average by 24.6 months and in some cases by as much as 69 months. Some of the analysis that follows in this chapter is based on the year in which the violation occurred, but for continuity purposes most of it is based on the year in which the violation was investigated.

The data are analyzed in five separate categories: number of new investigations per year, types of violations, violations by claimant, the investigations process, and disciplinary actions. The results of the data analysis can be used as either a baseline by which all future studies are measured, an assessment of the DoN's effectiveness in reducing Antideficiency Act violations, as an aid in the refinement of the training curriculum, or it can help decision makers formulate new policy if necessary. Each of the five data categories is discussed in the following sections.

A. NUMBER OF NEW INVESTIGATIONS PER YEAR

The number of new investigations per year is a good metric for assessing the effectiveness of the DoN's effort to reduce Antideficiency Act violations. A direct trend analysis of violations per year could not be accomplished with the available data because of the time lag between the time a violation occurs and the time it was discovered. As previously mentioned, the time lag averages just over 24 months, with a standard deviation of 19.3 months. Therefore, from a statistical perspective, approximately 67 percent of the violations that occurred for the last 44 months of data are included in the data set. Knowing this, it was determined that the number of investigations per year

would be the best metric for this data set to determine the trend in frequency of violations in the DoN.

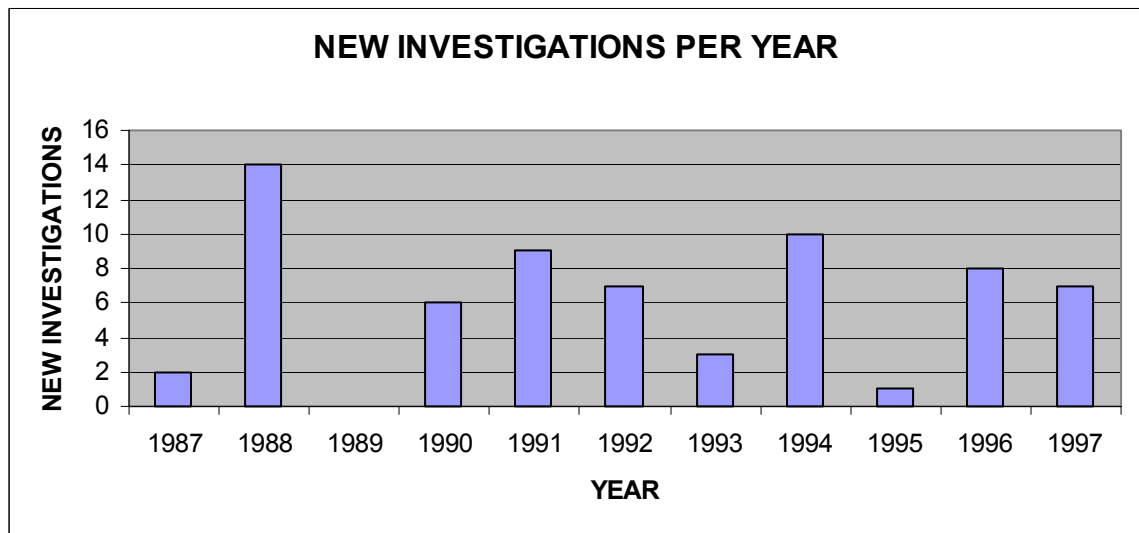


Figure 3. New Investigations per Year

Figure 3, above, showing the number of new investigations per year, indicates that the system is not stable, meaning the excessive variation makes it impossible to predict from one year to the next how many investigations will occur. For example, in 1988 there were seven times as many investigations as in 1987, and zero investigations in the following year. Similar data exists for 1994.

In an effort to smooth out the variation, it was found that taking a three-year moving average significantly reduces the error from the predicted values and actual values in a regression model. In Figure 4, below, it becomes apparent that by taking a three-year moving average of the data, which effectively smoothes out the data, the DoN will investigate about 18 Antideficiency Act violations every three years, or six per year on average.

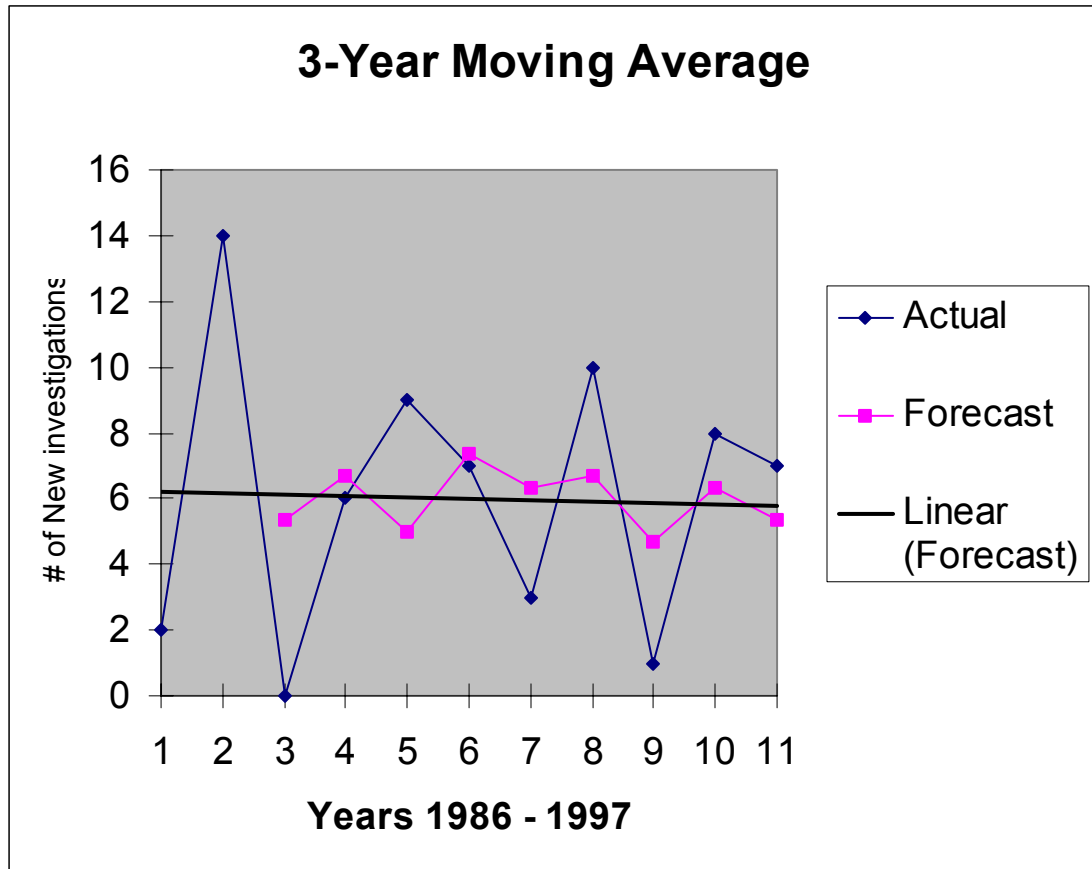


Figure 4. Three-Year Moving Average for New Investigations

The linear trend line in Figure 4 indicates that the three-year moving average decreases slightly over the 11-year period, but the decrease is negligible. It also shows that the number of investigations over a three-year period is stable, which is an excellent reference for planning purposes or as a baseline to use for future analysis.

B. TYPES OF VIOLATIONS

The following analysis examines the types of violations in three layers. The first is a macro view that identifies violations segregated by the legal statutes that define what constitutes an Antideficiency Act violation, Section 1341, 1342, and 1517. Each level of analysis more narrowly focuses on where the DoN needs to focus its training and education efforts for Antideficiency Act prevention and establishing and implementing internal controls. The second layer analyzes the investigations by the three elements of

availability of appropriations: purpose, time, and amount. The final layer of analysis breaks down the investigations resulting from “purpose” violations into specific appropriation accounts to determine if any account is more violated than the others. This analysis illuminates where the errors are occurring, and where the improvements in training, awareness, and internal controls are needed.

1. Violations by Statute

Figure 5 shows that 87 percent of the violations were violations of Section 1517, and 13 percent were violations of Section 1341. There were no violations of section 1342. Although this seems disproportionate, it is to be expected because most of the financial transactions occur at the 1517 level in the flow of funds system. Recall from Chapter II that Section 1341 prohibits expenditures or obligations in excess of an appropriation or fund, and Section 1517 prohibits spending in excess of an apportionment of an appropriation. Although it is not unusual to have more 1517 violations, it should not be dismissed. It is important to further analyze the causes of these violations in hopes of reducing their occurrence.

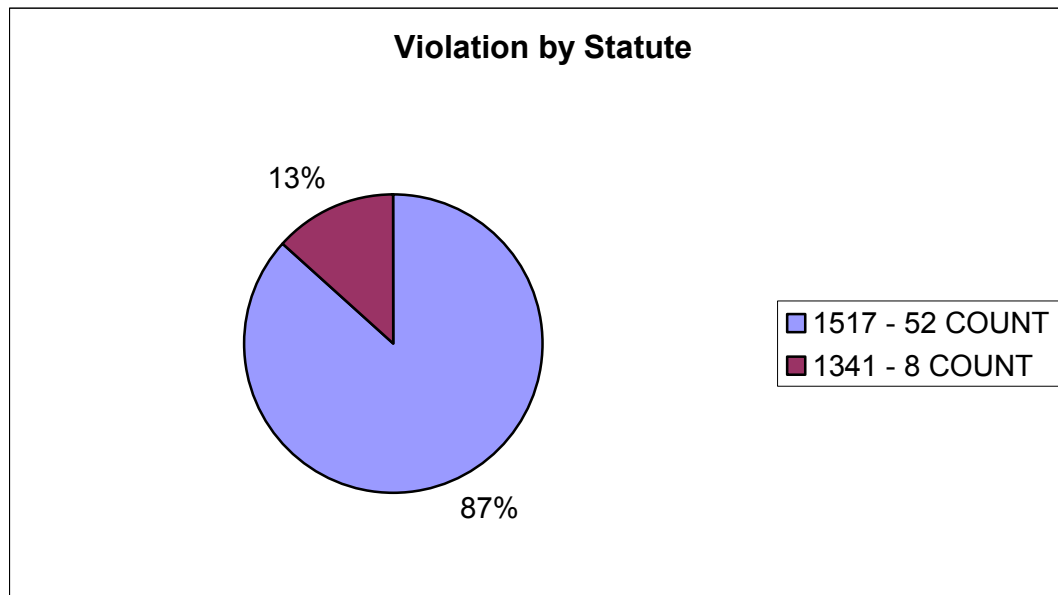


Figure 5. Violation by Statute

2. Violation by Availability of Appropriations

The concept of “availability” of appropriations is derived from whether appropriated funds are or are not “legally available” for a given obligation or expenditure. Whether appropriated funds are legally available for obligation or expenditure depends on three things:

- a. The purpose of the obligation or expenditure must be authorized;
- b. The obligation must occur within the time limits applicable to the appropriation; and
- c. The obligation and expenditure must be within the amounts Congress has established.¹¹

All three elements of the concept of availability: purpose, time, and amount must be observed for the obligation or expenditure to be legal.



Figure 6. Availability Violations

In this step of the analysis, highlighted in Figure 6, it was discovered that 31 percent of the investigations occurred because of a potential violation with regard to “amount,” 16 percent with regard to “time,” and that 53 percent of the investigations occurred because of a potential violation with regard to “purpose.”

¹¹ GAO/OGC-91-5, Appropriations Law, Volume 1, Chapter 4, page 2.

The majority of the investigations with regard to an “amount” violation evolved because of poor accounting practices. Failure to post obligations or expenditures in a timely manner led to a false understanding or assumption that commands had more money available to spend than they actually had. Subsequently, these commands often over-obligated their accounts and were charged with a violation of the Antideficiency Act.

The 16 percent of investigations resulting from a “time” violation occurred because commands unknowingly created liabilities in advance of appropriations by letting complex contracts, or because of communication errors between a command and its claimant.

The majority of investigations, and the one that deserves further analysis, resulted from violations of the “purpose” statute. The “purpose” statute is often referred to as a 1301 violation or the “color of money” statute. It requires that appropriated funds be used only for programs and purposes for which the appropriation is made. Although a violation of Section 1301 is not a violation of the Antideficiency Act, it can, and often does lead to a violation. When a 1301 violation has been discovered, accounting adjustments must be recorded so the correct account is charged. If the adjustments results in an over-obligation or over-expenditure of the appropriation or fund charged, then a violation of Section 1341 or 1517 has occurred which is a violation of the Antideficiency Act.

The Section 1301 violations occur because commands often exceed the investment/expense thresholds associated with certain types of appropriation accounts. The data show that more training and awareness needs to be performed on the nuances of what is an expense, what is an investment, and what are the appropriate thresholds associated with certain accounts that delineate the difference between the two.

Generally, “expenses” are the use of funds to operate and maintain an organization such as payroll, utilities, supplies and travel. These amounts are budgeted in the O&M,N and MPN accounts, which are annual appropriations. “Investments” are the use of funds for acquisitions or additions to end items. For example, if a command purchases a computer terminal that will be connected to an already existing LAN system,

that computer terminal must be purchased using investment type funds even though its unit cost is below the investment/expense threshold because it is an addition to an end item or existing system whose collective value exceeds the investment/expense threshold. Investments benefit future periods and are budgeted in a procurement account such as OPN, or the MILCON account, which are multiple year appropriations.

The current “expense” and “investment” threshold for O&M funds is \$100,000. For items with a system or unit cost less than \$100,000, the O&M,N appropriation is used. For items with a system or unit cost of \$100,000 or greater, the applicable procurement account is used. However, it is important to note that the investment/expense threshold was raised from \$3,000 to \$100,000 during the time period covered in this study.

The current Military construction threshold between what is considered a minor construction expense and a minor construction investment is \$750,000. O&M,N funds should be used for minor construction valued below \$750,000, and MILCON funds for construction valued greater than \$750,000. There are actual cases in this study where commands tried to circumvent this threshold by purchasing “parts of buildings” whose value was less than the existing threshold at that time. Upon investigation it was revealed that the sum of the parts for the entire building or complex, once completed, was valued at more than the existing threshold. These commanders and their staffs were charged with violating the Antideficiency Act.

Other Section 1301 violations that occurred frequently in this analysis dealt with purchasing computer and other electronic equipment. Once again, the commands purchased several items individually at a cost less than the existing threshold, but when the pieces were joined together as a system, their total costs exceeded the threshold. A complete listing of causes by case number is listed in Appendix B.

3. Appropriation Avoided

In an effort to illuminate the causes of Section 1301 violations, an analysis of the particular appropriation accounts used in those transactions was conducted. Figures 7 and 8 below indicate that of the expense/investment threshold errors, DoN personnel are

confusing the O&M,N account and the OPN account. Figure 7 reveals the types of accounts that should have been used in financial transactions but were not, resulting in a “color of money” violation. Figure 8 shows the type of accounts that were used incorrectly in lieu of the appropriate account. Combined, Figures 7 and 8 indicate that OPN was the appropriation that should have been used in 82 percent of the 1301 violations but was not, and O&M, was improperly used in 65 percent of the 1301 violations. It is obvious that a significant number of people in the DoN make financial transactions using O&M,N funds when they should use OPN funds. Decision makers and course curriculum model managers can now focus their training courses to include more coverage of this deficiency, and the internal controls for identifying this type of error.

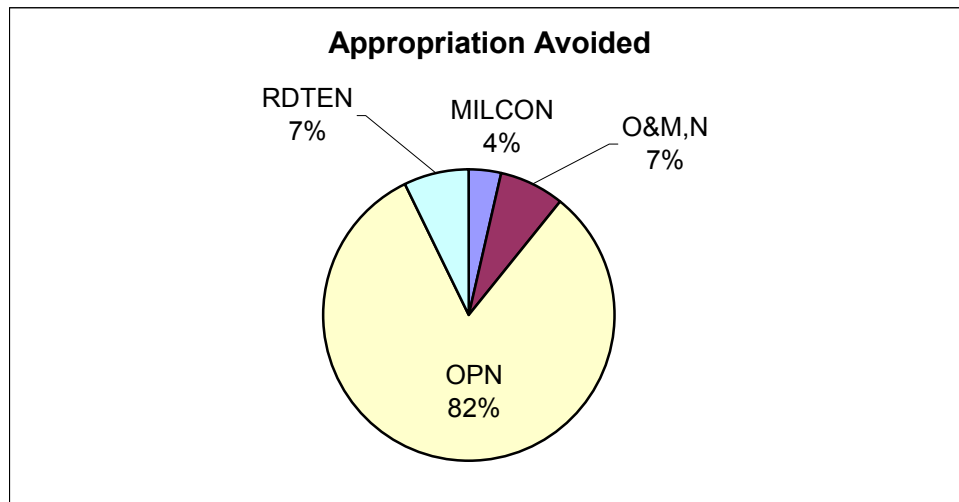


Figure 7. Appropriation Avoided

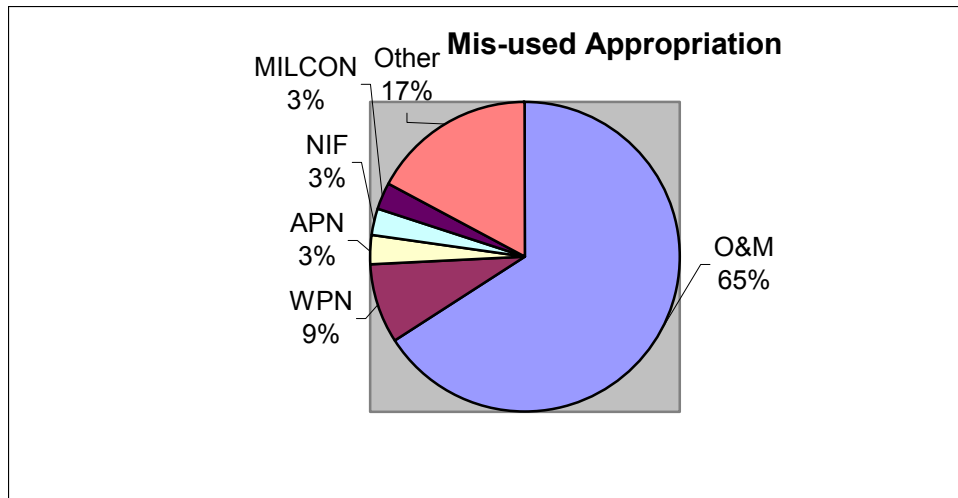


Figure 8. Mis-used Appropriation

The analysis of violations by availability infractions allows the decision makers to raise command awareness and focus their internal control efforts on reducing Section 1301 violations, which will reduce their Section 1517 violations. More specifically, they should assess their ability to properly distinguish between expense and investment appropriations and expenditures with particular attention paid to the use of their O&M,N and OPN accounts. Training course developers and curriculum model managers can also adjust their course material and teaching emphasis to better educate their students on the above findings. Commands must also continue to find ways to improve their accounting systems so their ledgers are updated in a timely manner.

C. VIOLATIONS BY CLAIMANT

In the previous section an analysis was done that explained what caused the majority of violations that were investigated. This section analyzes the 62 investigations segregated by claimant to explain where the violations are occurring. This will allow decision makers to focus any special training or develop mission unique controls to specific claimants if needed.

Figure 9 segregates the number of violations by claimant. The figure illuminates all claimants who had two or more violations in this study. Claimants who had only one violation were combined to form the “other” category.

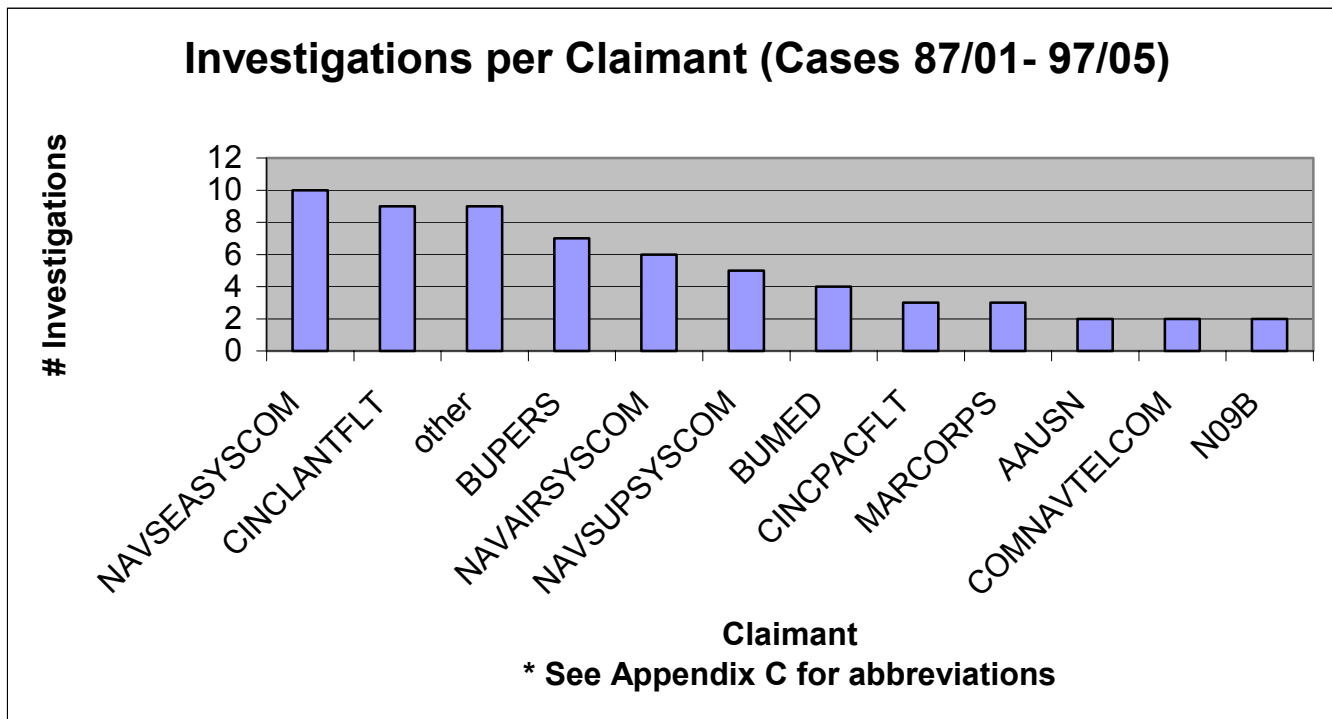


Figure 9. Investigations per Claimant

Segregating the investigations by claimant shows that three of the Systems Commands (SYSCOMS), Naval Sea Systems Command (NAVSEASYSKOM), Naval Air Systems Command (NAVAIRSYSKOM), and Naval Supply Systems Command (NAVSUPSYSKOM) account for 21 of the 62 cases. Upon first inspection it may seem unusual that approximately one third of all DoN investigations in this 11 year period were caused by only three of the major claimants. However, after researching the system commands it was found that these commands collectively carry a larger portion of the Navy budget, deal with multiple appropriation accounts, and many of their financial transactions occur over a time span of several years.

The SYSCOMS are very large, complex commands that handle much of our highly complex acquisition dollars. Although it varies from year to year, the collective budget of the SYSCOMS usually exceeds one third of the total Navy budget, so it is not surprising that they account for one third of the investigations. For example, NAVSEASYSKOM is the largest of the five Navy Systems Commands. Its FY00 budget

of approximately \$14 billion accounts for approximately 16.5 percent of the Navy's FY00 budget of about \$84.9 billion. This budget places NAVSEASYSKOM among the nation's top business enterprises when comparing the value of assets, number of employees and budget using Fortune Magazine criteria. NAVSEASYSKOM administers more than 1,400 foreign military sales cases. These sales are worth about \$16.7 billion and involve 80 countries, 4 of which are members of NATO.¹²

Many commands manage only a few appropriation accounts. The SYSCOMS must manage multiple appropriation accounts which exposes them to more opportunities to violate the Antideficiency Act. Forty-seven percent of the investigations in this study involve a command using the wrong “color of money.” If a command has only one color of money in its budget, it is less likely to make this mistake. If a command has only two different colors of money in its budget, the chance of an error is there, but it isn’t that high. The SYSCOMS normally deal with five or more different types of appropriated funds. For example, NAVAIR’s appropriated funds were \$11.9 billion in FY98. These funds consist of the following types: Aircraft Procurement Navy (APN), Weapons Procurement Navy (WPN), Research Development Test and Evaluation Navy (RDT&E,N), Operations and Maintenance Navy (OMN), Other Procurement Navy (OPN), and Other (PAN&MC & BRAC).¹³ To make matters more complex, many of the SYSCOM appropriation accounts are multi-year obligation accounts, which means the length of the obligation period is greater than one year. Dealing with multi-year accounts requires more complex accounting systems, and more complex internal controls. Eight of 21 SYSCOM investigations resulted from mistakes made in mishandling funds during multi-year obligation availability periods.

Besides the SYSCOMS, the only other unusual statistic observed in Figure 9 is the large number of violations CINCLANTFLT has (9) relative to CINCPACFLT (3) – two very similar commands in terms of size, budget and mission. Of the nine CINCLANTFLT investigations, seven of them were Section 1301 violations. Overspending appropriated funds caused the other two. CINCPACFLT had two Section 1301 violations and one overspending violation. CINCLANTFLT had two pairs of repeating offenses (cases 88/5

¹² <http://www.navsea.navy.mil/aboutnavsea2.asp>.

¹³ <http://www.navair.navy.mil/business/finances.cfm>.

and 88/6, and cases 91/8 and 91/9) in consecutive years by the same person. Had the violation been discovered in a more timely manner, the two repeated violations (case 88/6 and 91/9) would have been avoided.

D. INVESTIGATION PROCESS

Paramount to the effective management of any system is discovering the flaws of the system in a timely manner, and correcting those flaws quickly so they are less likely to be repeated. The perception in Congress in the early 1990's was that the DOD did not take violations of the Antideficiency Act seriously. It often took several years for alleged violations to be investigated and brought to closure. In many cases investigations were completed after the individuals named responsible had retired. In an effort to expedite disclosure and investigation of potential violations, and to demonstrate to Congress the importance of the issue, the Office of the Secretary of Defense (OSD) developed and issued a new directive 7200.1, *Administrative Controls of Appropriations*, in May 1995. Immediately following the issuance of the new directive, DOD issued Financial Management Regulation (FMR) Volume 14, *Administrative Control of Funds and Antideficiency Act Violations*, in August 1995. These two documents changed the way the Navy processes Antideficiency Act violations in a timely and professional manner.

The following sections examine the investigation process from discovery of a violation to the USD(C) submitting the obligatory letters to the President of the United States and the leaders of Congress. Whether the violation was discovered internally or by some external investigation, and the time it takes to discover a violation, are two excellent metrics the DoN can utilize to measure if the system of internal controls is effective. A command with effective internal controls in place will have fewer violations, and will be able to discover violations quickly while there is still time to correct the error and prevent recurrence.

1. Who Discovered the Violation

The 62 cases that were investigated from 1987 to 1997 were discovered by a variety of means ranging from hot-line tips and external investigations to internal audits. Figure 10, below, shows that 51 percent of the violations investigated were discovered via some sort of internal measures or checks during the course of routine work. Whenever a violation is discovered internally, it speaks well for the system of internal

controls established by the Commander and his/her staff. However, without other studies to compare data, it is difficult to quantify 51 percent as being either good or bad. Obviously we would like all potential violations to be discovered internally by the organization that committed the violation, but that is not what the current system of internal controls is capable of delivering. The DoN can use this information to establish goals for improving the process of discovering violations by the originating command, and can be considered the baseline that future studies use to measure progress.

From the DoN's perspective, it really doesn't matter who finds the violations or how they are found. What is important is to correct the situation, develop a list of lessons learned, and take action to prevent recurrence.

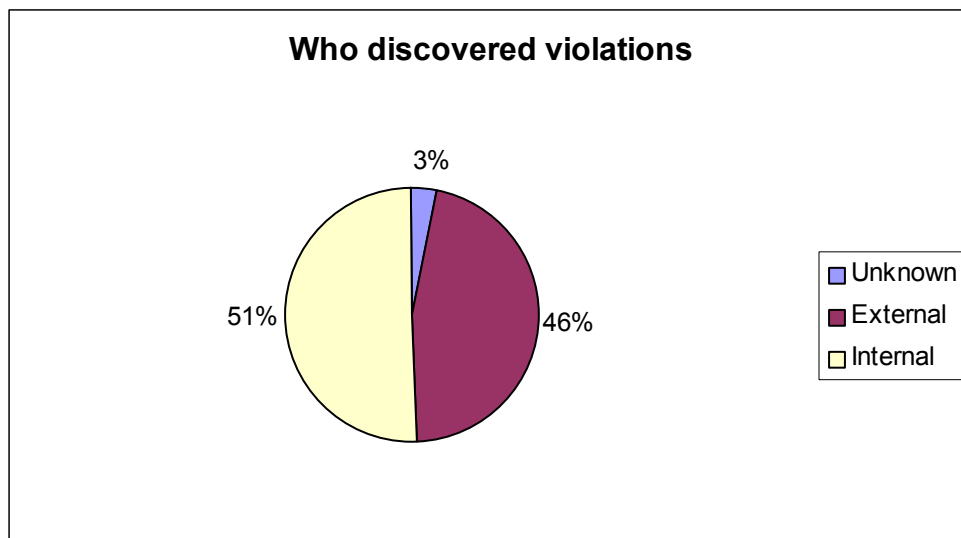


Figure 10. Who Discovered Violations

2. Time to Discover the Violation

When analyzing CINCLANTFLT's violations in a previous section, it was determined that two of the nine violations could have been prevented if the original violation was discovered in a timely manner. A quick analysis of BUPER's seven investigations reveals that four violations (cases 92/3, 92/4, 92/5, and 94/3) involved purchasing computer equipment for a Local Area Network system using O&M,N funds vice OPN funds. All four violations occurred in consecutive years from 1988 through 1991, yet the earliest date of discovery for all four violations was December 1991. Had the initial violation been discovered earlier, and awareness of, and training to the

violation been heightened at the claimant level, the probability of the same violation occurring at that level over the next three years would have decreased significantly. Just by analyzing the investigations of the above two claimants, it can be argued that timely discovery of potential violations would have been reduced the DoN's number of violations by nearly 10 percent.

Figure 11 illustrates the number of months it took to discover a violation for the 62 cases used in this study. Because the data are so unstable and unpredictable, a moving average was necessary to develop a useful model that accurately predicts the months to discover with minimal errors. It was discovered through trial and error that a 5 case moving average was the smallest moving average value that could be used and still provide an accurate model. Fortunately, the analysis of time it took to discover the 62 potential violations in this study in figure 11 below shows a steady decrease from approximately 36 months in 1987 cases to just under 20 months in 1997 cases. This trend can be attributed to many factors, the most important of which is the increased emphasis Congress, the Department of Defense, and Naval leadership placed on Antideficiency Act violations.

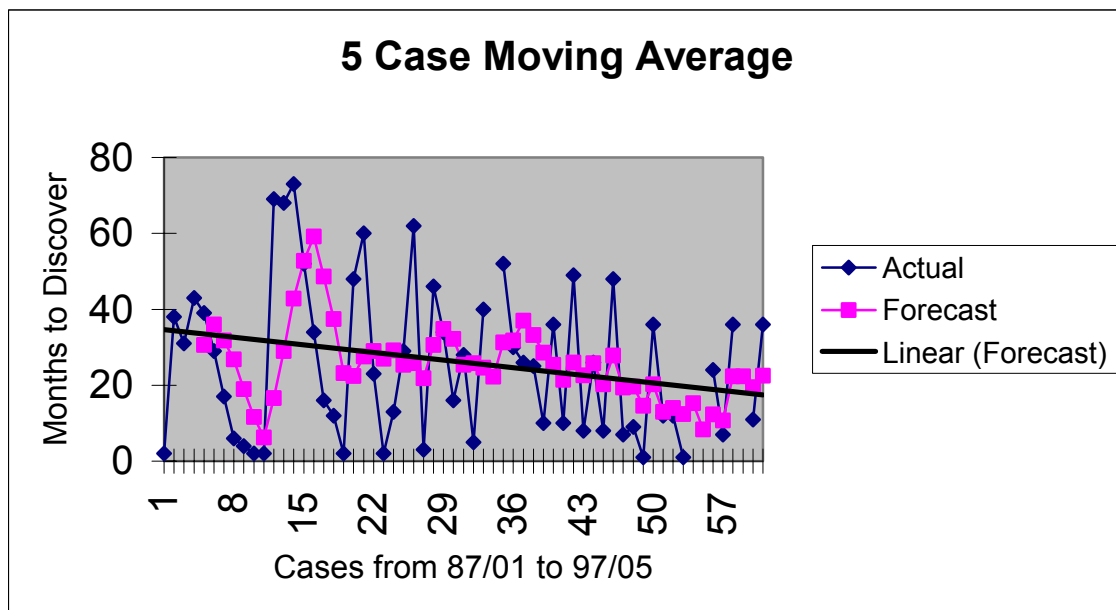


Figure 11. Time to Discover Violation

3. Time to Complete an Investigation

Equally important to the “time to discover” a violation is the “time to complete an investigation.” Quick resolution of a potential Antideficiency Act violation is necessary so Commanders can determine whether the violation was caused by systemic problems or because internal control measures were overlooked. Once this is known, the Commander can implement proper internal controls or provide proper training to prevent recurrence.

The analysis illustrated in Figure 12, below, uses the five case moving average model for the same reasons as they were above, and to keep the analysis consistent. The data shows an improvement over time from 40 months for 1987 cases to approximately 18 months for 1997 cases. No doubt much of this improvement is a result of the new regulations developed in the mid-1990’s and the increased emphasis by Congress and military leadership placed on resolving Antideficiency Act violations in a timely manner.

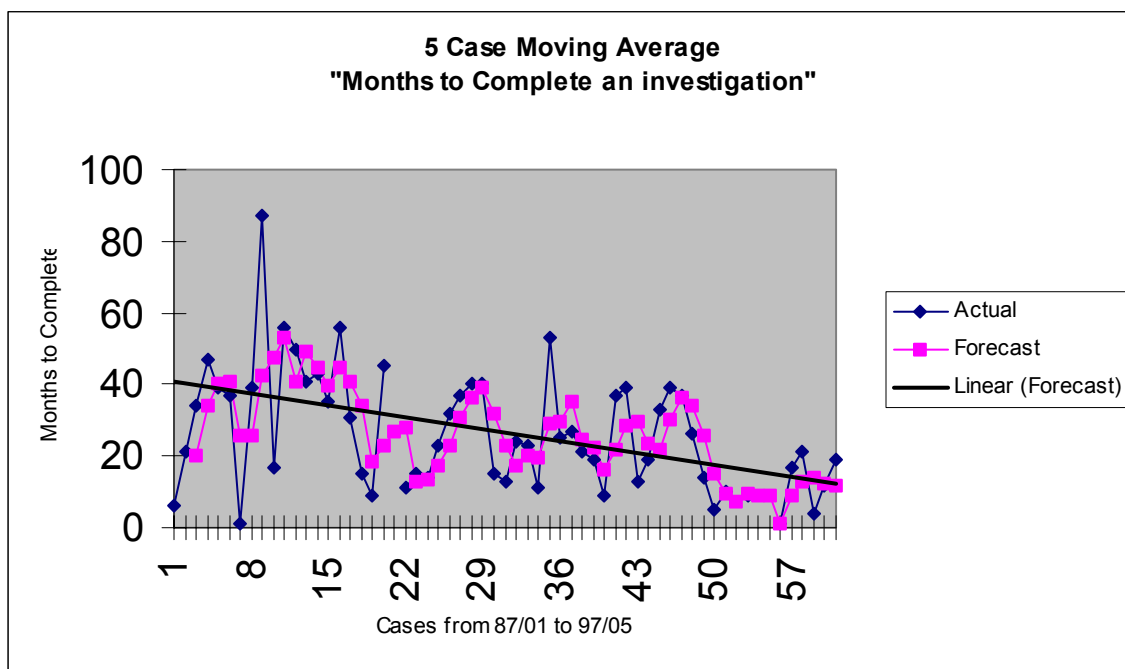


Figure 12. Months to Complete an Investigation

The data show that much progress has been made in the investigation process over the eleven-year period of this study. The driving force behind the improvement is

the increased emphasis that leadership placed on improving the investigation process. Leadership must continue emphasizing the importance of timely discovery and completion of investigations if they want this positive trend to continue.

E. DISCIPLINARY ACTIONS

Title 31, U.S. Code, Sections 1349 and 1518 provide for adverse personnel actions to those who inadvertently or unknowingly commit an Antideficiency Act violation. Section 1349 states, in part, that a government employee committing an Antideficiency Act violation “shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.”

In rare instances, an individual will knowingly and willfully commit an Antideficiency Act violation and the case will be turned over to the Criminal Investigative Service. Only two of the 62 cases in this study were considered to have been committed “purposely or knowingly.” In these cases stiff criminal penalties can be imposed under Title 31, U.S. Code, Section 1350 and 1519, which carry a fine of not more than \$5,000, imprisonment for not more than two years, or both. No person who was named responsible for committing an Antideficiency act violation in this study received a fine or imprisonment.

The Commanding Officer is responsible for administering administrative discipline if one of their employees has been found guilty of unknowingly committing an Antideficiency Act violation. Disciplinary actions are administered on a case-by-case basis depending on the results of the investigation and other mitigating circumstances.

1. Severity of Discipline

The objective of administering discipline is to hold those people who commit a violation accountable for their actions, and to deter people from committing future violations. According to Chapter Nine of the FMR, “Disciplinary action shall be administered on a case-by-case basis as determined by the proper authority. The level of discipline administered to the individual responsible shall be commensurate with the nature and seriousness of the offense, the record of the person responsible, their level of experience, the degree and level of responsibility of the individual. Any mitigating circumstances shall also be considered.”

Figure 13 illustrates the severity of punishment for civilians named responsible for committing an Antideficiency Act violation in this study. The three most severe categories: punitive letter, temporary suspension, and relieved of current duties/resigned, have potential to adversely affect a person's career and are considered "severe" discipline. Twenty-two percent of the civilians received severe discipline in this study.

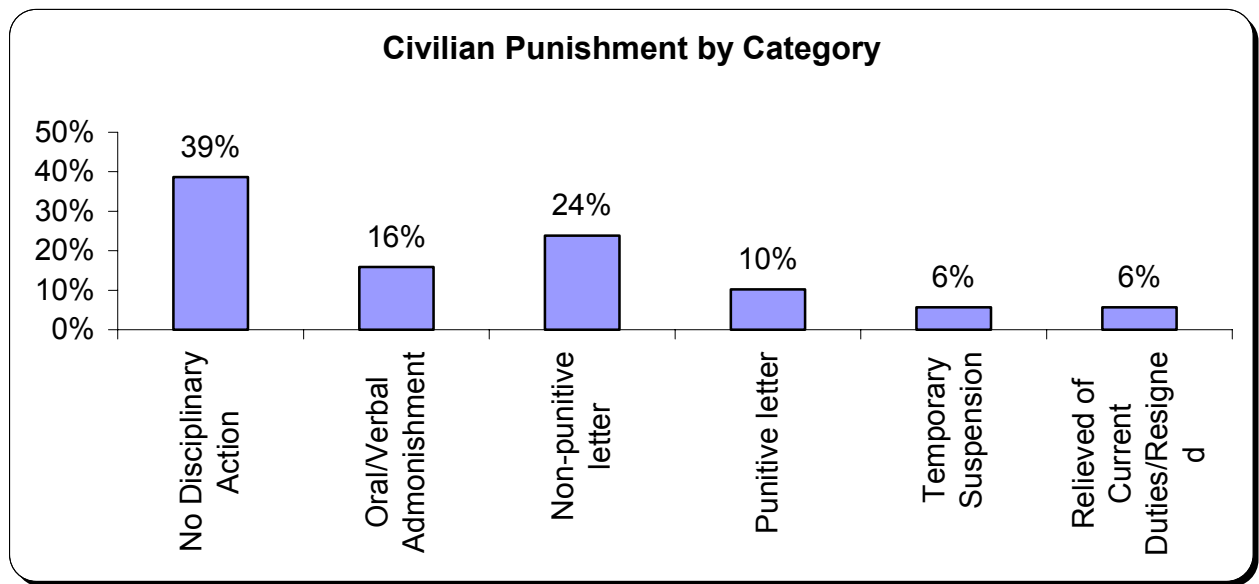


Figure 13. Civilian Punishment by Category

In Figure 14, below, the severity of punishment is categorized for the military personnel who were named responsible in the formal investigations. Unlike their civilian counterpart, military personnel do not get "temporarily suspended" from their job. Hence, there are only five categories for military analysis. For analysis purposes, two categories "punitive letter," and "relieved of current duties/resigned" have the potential of negatively affecting a persons' career and is considered "severe" discipline. Sixteen percent of military persons received severe punishment in this study.

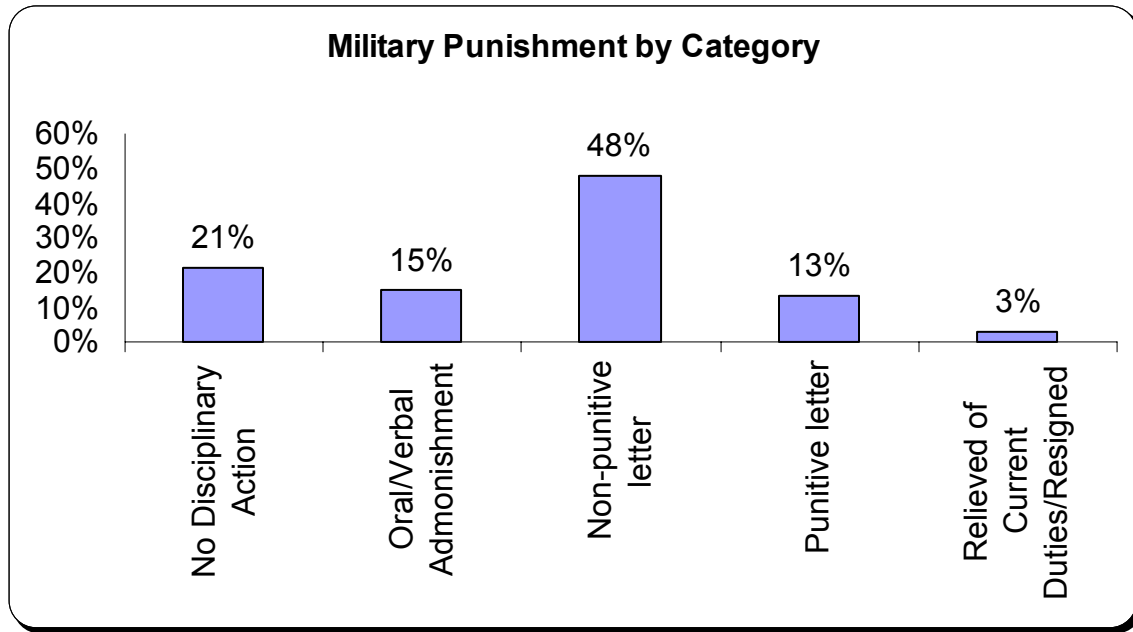


Figure 14. Military Punishment by Category

Keeping with the guidance in the FMR that “the level of discipline administered to the individual responsible shall be commensurate with the nature of the seriousness of the offense...” it is safe to conclude that the DoN considered less than 20 percent of the cases “severe” in nature. Current and future leadership must determine if this is the appropriate message they want to deliver to those who are responsible for executing the Navy budget.

a. Returned for Discipline

After analysis of the 62 cases it became obvious that the severity of the discipline awarded was dependent upon the person who awarded the discipline and the time period of the infraction. For example, seven of the first eleven cases in this study (cases 87/1 – 88/9) were returned by the CNO’s office to the commanding officer that administered the discipline for reconsideration on the level of discipline awarded. In every instance the CNO’s office deemed the discipline awarded was too lenient. In one case, 88/1, the CNO’s office stated that, “The retired status of ...was neither sufficient nor valid justification for not administering disciplinary action.” In another case, 88/3, the CNO ‘s office again requested reconsideration of the discipline awarded. The adjudicating authority refused to increase the level of discipline, so the CNO’s office

issued a letter of censure to the person held responsible for the violation. In the memo from the CNO's office to the commander responsible for awarding the discipline it stated, "There are often inherent benefits to proper disciplinary action, both to the individual and the organization. There are also mitigating factors, which may lead one to conclude that disciplinary action is not required or appropriate. In situations where disciplinary action is not taken, then full justification is required. Your justification, based solely on the rationale that the individuals are in a retired status, is neither a sufficient nor a valid justification for the lack of such action. The justification must be based on a detailed analysis of the incident rather than the individual's current status. Furthermore, your decision must consider the duties and responsibilities associated with the position at the time of the incident."

Beyond Case 88/9, no decisions were returned from the CNO's office for reconsideration, a time period of nine years worth of investigations. The significant decrease from 73 percent of the cases returned for discipline from the CNO's office to zero indicates a severe change in emphasis (command climate), policy, or personnel. Research indicates no significant change in policy occurred during this time frame. It is also interesting to note that at least five cases beyond Case 88/9 involved decisions of "no discipline" based upon the fact that the person named responsible was in a retired status or no longer worked for the government. This leads to the conclusion that the level of discipline is dependent in large part by the emphasis leadership places upon the importance of Antideficiency Act violations, and the personal views of the person who determines what level of discipline is appropriate.

2. Persons Held Responsible by Rank or Grade

The previous section illustrated the variation in the severity of discipline that was administered to those who committed Antideficiency Act violations. Eighty-four percent of the military and 78 percent of the civilians received punishment that has little effect on their career. This section illustrates the rank or grade of those who were named responsible in the investigations. Conventional theory in the DoN states that people in positions of responsibility, and those that have the authority to decide the outcome of an action, should ultimately be held accountable for the actions and decisions that are made

under their leadership. The figures below show the data segregated by the rank or grade of the people who were named responsible in the investigation.

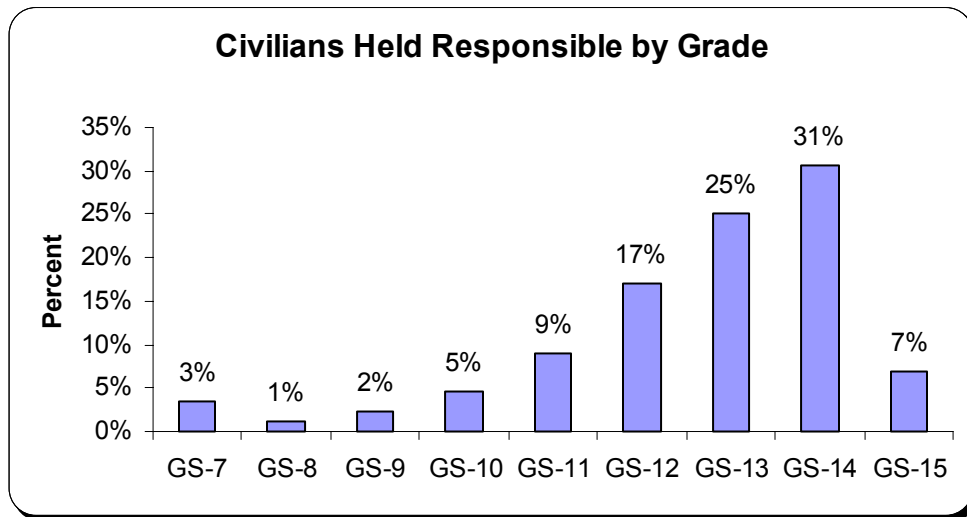


Figure 15. Civilian's Held Responsible

Figure 15, above, shows the relationship between a government employees' grade and the likelihood of being held responsible for a violation. Thirty-one percent of all civilians held responsible in the 62 cases used in this study were GS-14 grade, while 80 percent of the civilians were in the GS-12 grade or higher. The steady increase from GS-8 to GS-14 was expected because of the increase in authority and responsibility that comes with an increase in grade. However, the three percent figure at the GS-7 grade and the seven percent figure at the GS-15 grade were not expected. Holding a GS-7 responsible indicates that perhaps the delegation of authority and responsibility was pushed too far down the scale. Internal controls should have more senior, more experienced people checking the expenditure of funds initiated by government employees at the GS-7 grade. The excessive drop from grade GS-14 to GS-15 is unusual as well, especially considering the steady increase in percentage up to the GS-14 grade. No objective conclusions can be drawn from the data in this study to explain this significant drop.

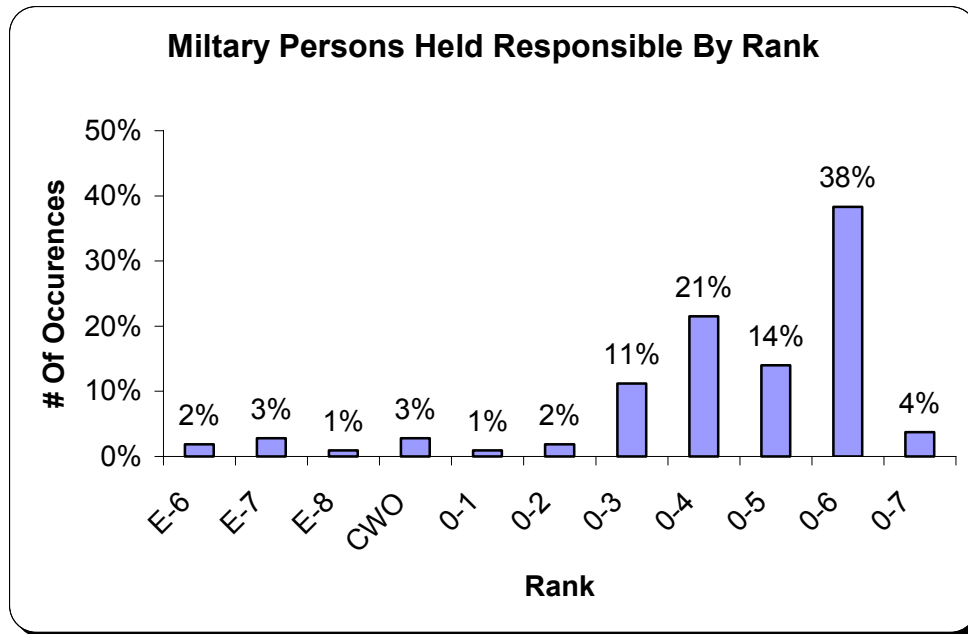


Figure 16. Military Persons Held Responsible

Although not quite as uniform as the civilian comparison, Figure 16 also indicates that the percentage of those in uniform held responsible increases as their rank increases. Approximately 88 percent of the military held responsible were at the O-3 rank or higher. A relatively big spike occurs at the O-6 rank due to the positions of responsibility held by these people. Most were commanding officers, where Navy culture dictates that they are automatically held responsible for most everything that occurs under their leadership. The other O-6's held positions as program managers in our highly complex acquisition arena where they are responsible for the large, diverse funds associated with their program.

These data conclude that, in large part, the level of those named responsible for a violation is commensurate with the rank or grade of those who should have final decision authority. In an effort to reduce violations the DoN should target the training at the GS-12 through GS-14 grade, and the O-3 through O-6 ranks. Training at this level should concentrate on raising the level of awareness, defining what constitutes an Antideficiency Act violation, and how to implement proper internal controls to prevent a violation from occurring. The commanding officers should also ensure that their subordinates attend the proper training courses offered. Finally, the commanding officers need to be aware of the

climate they establish within their command, because they may unknowingly influence their subordinates to violate the Antideficiency Act for expediency purposes. Commanding officers need to understand that alternatives exist, such as the option of reprogramming funds, to help them accomplish the mission without violating regulations or laws.

The analysis in this chapter focused on five separate categories: number of new investigations per year, types of violations, violations by claimant, the investigative process, and disciplinary actions. These metrics were chosen for one of two reasons, either to measure the DoN's progress in reducing Antideficiency Act violations, or for their importance in ultimately reducing violations in the DoN. The next chapter highlights the conclusions that were made from this analysis, and recommendations on how the DoN can further reduce the number of Antideficiency Act violations in the future.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. SUMMARY

In today's climate of increasing defense budgets and a return to deficit spending at the federal level, certain members of Congress, the media, and citizen action groups will scrutinize how efficiently and effectively the DoN executes its budget. Hence, the DoN must continually demonstrate that it is a good steward of the taxpayer's money. Every violation of the Antideficiency Act will create doubt that the DoN is capable of executing its budget in accordance with the will of Congress, the taxpayers, and the law. Increased doubt in the DoN's ability to execute its budget in accordance with the law invites negative press coverage and the likelihood of further micromanagement of our appropriated funds at the Congressional level.

This study provides analysis of formal investigations of the Antideficiency Act violations that occurred in the DoN from 1987 through 1997. Specifically, the analysis focused on the number of investigations per year to detect if a trend occurred, the types and causes of violations to determine if one was more prominent than the others, where the violations occurred within the DoN to determine where more training was needed, the investigation process to determine if the process was improving, and the disciplinary process to determine if the discipline was fair, equitable, and effective.

Research for this study indicates that the DoD and DoN are constantly pursuing and implementing initiatives that are designed to reduce the number of Antideficiency Act violations. The past decade produced laws, directives and regulations in an effort to improve the financial structure in the DoD, which identify and reduce Antideficiency Act violations. Examples include the Chief Financial Officers Act, the Federal Managers' Financial Integrity Act, the DoD Financial Management Regulation Volume 14, and the DoD directive 7200.1, plus many more.

The Naval Financial Management Career Center and Centralized Financial Management Trainee Program (CFMCP) continue to provide ever-improving courses that aggressively address causes and methods of prevention of the Antideficiency Act. The office of the ASN (FM&C) is currently orchestrating a review of comptroller

organizations for 23 major Navy commands, the Marine Corps, and over 200 subordinate activities. The purposes of this review are to ensure that comptrollers report directly to the activity commander; that clearly defined comptroller functions are assigned to the comptroller without overlap into other organizational entities; and the comptroller organization within a command is able to exercise its responsibility and authority. These changes will ensure that comptrollers are properly positioned to fulfill assigned fiduciary responsibilities. The following conclusions and recommendations are meant to assist the professionals who combat these violations everyday.

B. CONCLUSIONS AND RECOMMENDATIONS

The DoN made significant improvements in managing several processes associated with the Antideficiency Act from 1987 to 1997. Most impressive were the significant declines in the time it took to discover a violation - from approximately 36 months in 1987 cases to just under 20 months in 1997 cases, and the time it took to complete an investigation - from 40 months for 1987 cases to approximately 18 months for 1997 cases. This is great news if your goal is to provide good treatment to an already sick patient. However, if the main objective for the DoN is to reduce and eventually eliminate the illness, that is to reduce or eliminate the likelihood that a command will commit an Antideficiency Act violation, the DoN must focus its energy and resources on timely and effective training, and proper development, implementation, and execution of internal control procedures.

In keeping with the old saying that, “an ounce of prevention is worth a pound of cure,” the DoN can make the greatest impact on reducing Antideficiency Act violations at the least cost by investing in timely and effective training, lobbying for a change in the investment/expense threshold limits, and further development of financial systems that have integrated internal controls that prevent or warn of an impending Antideficiency Act violation. Training in this context includes both the formal training courses sponsored by the Naval Financial Management Career Center and CFMCP, and command-level training delivered by individual members internal to an organization.

1. Type of Violations

Conventional wisdom says, “if you want to catch fish, you go fishing where the fish are.” Hence, if you want to reduce the number of Antideficiency Act violations, you

first have to discover where they are occurring in the system, and which type is most prevalent. This analysis indicates that 87 percent of the violations were violations of Section 1517 and suggests that it may be very beneficial for the DoN to seek ways to improve the administrative apportionment of funds process as these funds are distributed down to lower echelon commands.

It is equally imperative that commanders who receive funds with Section 1517 responsibility attached fully understand the availability of funds statutes and the ramifications of violating the statutes. Although more violations are expected because of the larger number of financial transactions that occur at the 1517 level, this statute is the most violated of the three statutes that constitute the Antideficiency Act. Therefore, training on Section 1517 should be expanded if the DoN is concerned with reducing the number of violations.

a. Section 1301 Violations

Fifty-three percent of the violations involve violations of the “purpose” statute, better known as the “color of money” statute. The violations were broken down further into the accounts that were used inappropriately, and the accounts that were not used when they should have been used. The results showed that two specific “colors of money” were used incorrectly with greatest frequency - the OPN and O&M accounts.

The O&M account, an annual expense account, was used most often when it should not have been. Whenever a purpose statute was violated in this study, the O&M account was the account used in 65 percent of the cases when another account should have been used.

On the flip side of the coin, financial managers avoided using the OPN account, a multi-year procurement account, in 82 percent of the purpose statute violations. The DoN would achieve great returns on investing more time and resources in providing more thorough training on the distinction between what is an “investment” and what is an “expense,” and in the proper use of the OPN and O&M accounts. This can be incorporated into all of the formal training courses sponsored by CFMCP and by individual trainers at the organization level.

b. Raise Threshold Limits

An alternate solution to reducing violations associated with the expense/investment threshold is to raise the threshold limits. The fiscal year 2002 Authorization act increased the O&M threshold for minor construction from \$500,000 to \$750,000. This is an incremental increase that would have had little effect on reducing the number of violations in this study. A more influential step would be an increase in the \$100,000 threshold for purchasing general equipment. A Secretary of Air Force memorandum, dated 4 January 2001 recommends legislation to increase this threshold limit to \$500,000. Of the 62 violations in this case study, 18 of them would not have existed if the threshold limit of \$500,000 were in place. An increase of this magnitude would give activities greater flexibility in reacting to changing operational requirements and reduce the number of Antideficiency Act violations in the DoN.

2. Violations by Claimant

The highest concentration of Antideficiency Act violations occurred in the SYSCOMS. This should not be a surprise because the size of the budget and complexity of the procurement business, SYSCOMS are more vulnerable to Antideficiency Act violations. Hence they need to spend more time and resources on training their personnel in appropriation law. Research for this study indicates that the SYSCOMS already commit an enormous amount of resources and effort towards reducing Antideficiency Act violations.

The web sites provided by NAVSEASYSKOM and NAVSUPSYSCOM are excellent resources for information on the Antideficiency Act. However, the fact remains that during this eleven-year period, the SYSCOMS had the highest number of Antideficiency Act violations in the DoN. Thorough training, continuous refinement of their internal control procedures, and a constant heightened level of awareness at the SYSCOMS could reduce the number of Antideficiency Act violations in the DoN by up to 33 percent according to the analysis in chapter three.

a. Recurring Violations

During the case-by-case analysis of the violations it was discovered that CINCLANTFLT had two pairs of repeat violations in consecutive years by the same people, and BUPERS had four consecutive violations that were very similar in type and

nature in four consecutive years. If the violations had been discovered in a timely manner, and procedures were in place to alert the subordinate commands under these claimants of the type and nature of the violations, then there is a good chance that five of those repeat violations would have been prevented. Serial offenses like these could be reduced through early discovery and proactive awareness mechanisms.

b. E-mail Solution

Once a violation is discovered, the budget policy and procedures division of the ASN (FM&C) could release an e-mail to all comptrollers that gives a brief synopsis of the type and cause of the violation. The comptrollers could then pass the information on to persons who are at risk of committing similar violations. Publishing a brief synopsis of current investigations in the “DC Connection” and the Navy’s “Comptroller” magazine would raise awareness of Antideficiency Act violations in the financial community. This constant communication of information on the Antideficiency Act will keep the topic in the forefront of the minds of the professionals in the financial world.

c. Website Solution

For training purposes, it may be beneficial for the ASN (FM&C) develop a website that has a synopsis of the most current violations from the past ten-years. Individual command trainers could use this data for research and training. Implementation of the e-mail system and website is a low cost solution that should result in a reduction of potential violations. The time and resources to perform these tasks would be miniscule compared to the time and resources required to complete just one investigation.

3. Discovering Violations

Fifty-one percent of the formal investigations began with violations discovered by a source internal to the command that committed the violation. Ideally, it would be nice if all potential violations were discovered by internal controls established at the level in which the violation occurred. However, this would require workers at every echelon to have complete knowledge and understanding of all the nuances of the Antideficiency Act and the expertise to identify and eliminate every potential violation. Attempting to train people and develop systems to meet that standard may not be the best use of our

resources. This information should be used as a baseline for future studies that assess the overall effectiveness of the internal controls associated with the Antideficiency Act.

4. Discipline

Discipline is a very subjective, yet crucial component used to reduce the number of violations. Perfect formulation and implementation of all the laws, directives, regulations, and training in the world would not eliminate Antideficiency Act violations. Equally important is the human component, which involves controlling a persons' behavior through proper leadership and incentives. If people are not held responsible for their illegal actions, then more people will commit those illegal actions.

A perfect analogy is speeding on the highway. Police rarely pull drivers over if they are going 60 mph in a 55 mph zone, so eventually everyone who benefits from driving 60 mph in a 55 mph zone will do so. Similarly, if people who commit Antideficiency Act violations are not properly disciplined, it invites similar behavior if it benefits them to do so.

This study illustrates the variability in discipline awarded to personnel, which is dependent upon the current corporate culture and/or the prevailing attitude towards the severity of the violation of the commander who administers the discipline. It is incumbent on leadership to make proper discipline an appropriate incentive to avoid violating the Antideficiency Act. Reducing the variation in discipline at the CNO level, similar to the 1987 to 1989 time period may facilitate fewer violations of the Antideficiency Act.

5. Alternative Strategy

The analysis and resulting conclusions and recommendations in this study were completed and formulated based on the assumption that the DoN wanted to reduce the number of Antideficiency Act violations per year. However, when observed from a statistical perspective, the DoN is averaging only six investigations per year, yet conducts millions of financial transactions per year. Considering the number of financial transactions that occur in the DoN, are six investigations per year excessive? Considering the constant three year moving average of six investigations per year, the system may be at the point of diminishing returns meaning that to obtain further reduction would require a substantial increase in investment of resources. Is the cost of

further reduction worth the benefit of better fiscal management? This analysis would also be dependent upon the size of violations in question as well as the frequency of violations. One major violation that receives substantial press coverage and Congressional interest can be more damaging to the DoN than several smaller violations that receive minimal press coverage. Obviously this is a subjective approach to the issue that needs to be addressed by senior leaders in the DoN, but one that deserves consideration.

C. AREAS FOR FURTHER RESEARCH

The focus of this research was an assessment of the Antideficiency Act in the DoN from a macro perspective. The research uncovered some potential areas of additional research that were not covered in this thesis. The items below may warrant additional research:

- An analysis of the command-level training, accounting procedures and internal control mechanisms used to reduce Antideficiency Act violations at NAVSEASYS COM (or other major command). What improvements can be made in each area to reduce the number of Antideficiency Act violations?
- An analysis of Antideficiency Act violations across all military branches of service. What lessons can be learned from each branch and applied to the Department of the Navy to reduce the total number of violations?

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APPENDIX A. MASTER DATA TABLE

CASE NO	VIOLATION OCCURRED	DISCOVERED	MONTHS TO DISCOVER	INVESTIGATION COMPLETED	MONTHS TO COMPLETE	ACTIVITY	CLAIMANT	TYPE	WHO DISCOVERED	HOW DISCOVERED	AMOUNT	PPROPRIATIO	PURPOSELY/ KNOWINGLY
07/01	JAN 1906	JUN 1906	5	JAN 1907	6	NAVCRUTDIST KANSAS CITY	BUPERS	1517	Executive Officer	Internal	\$ 7,471	O&M,N	NO
07/02	FEB 1907	MAR 1907	2	SEP 1907	6	EPNAC NEW ORLEANS LA	BUPERS	1517	Director	Internal	\$ 45,775	O&M,N	NO
88/01	APR 1983	JUN 1986	38	MAR 1988	21	NAVSEALOGSUPE NGACT	NAVSEASYSKOM	1517	NAS Audit	external	\$ 3,696	O&M,N & NSF	NO
88/02	OCT 1983	MAY 1986	31	MAR 1989	34	NAVSEALOGSUPE NGACT	NAVSEASYSKOM	1517	NAS Audit	external	\$ 3,472,709	O&M,NR	NO
88/03	SEP 1981	APR 1985	43	MAR 1989	47	SUPSHIP SAN FRANCISCO	NAVSEASYSKOM	1517	NIS Hot line	External	\$ 41,880	O&M,N	NO
88/04	SEP & JAN 1982, MAY 1984	APR 1985	39	JUL 1988	39	SUPSHIP SAN FRANCISCO	NAVSEASYSKOM	1517	NIS Hot line	External	\$ 17,294	TOB & EOB	NO
88/05	SEP 1983	FEB 1986	29	MAR 1989	37	LANTFLT HEDSUPPACT	CINCLANTFLT	1517	NAS Audit	External	\$ 25,200	O&M,N	NO
88/06	SEP 1984, MAR 1985	FEB 1986	17	MAR 1986	1	LANTFLT HEDSUPPACT	CINCLANTFLT	1517	NAS Audit	External	\$ 164,252	O&M,N	NO
88/07	APR thru NOV 1985	OCT 1985	6	JAN 1989	39	2ND MARAJRWING	MARCORPS	1517	2nd MAW Comptroller	Internal	\$ 540,000	O&M,N	NO
88/08	JUN 1983	OCT 1983	4	JAN 1991	87	FLTINTELCTR PAC	CINCPACFLT	1341	Command Inspection	Internal	\$ 4,300	O&M,N	NO
88/09	JUN & JUL 1987	AUG 1987	2	JAN 1989	17	LANTFLT SHIPS	NAVSUPSYSCOM	1341	FAADCLANT	External	\$ 1,466,190	SSPN	NO
88/10	JUN 1986	AUG 1986	2	APR 1991	56	NFC CLEVELAND OH	NAVAC	1341	NAVACENGCOM	Internal	\$ 74,519	FH N&MC O&M,N, SCN, NIF, MCON	NO
88/11	FEB 1979 to FEB 1985	NOV 1984	69	JAN 1989	50	NAVAIRENGEN LAKEHURST	NAVAIRSYSCOM	1517	Hotline	External	\$ 2,385,759	O&M,N	NO
88/12	DEC 1979	AUG 1985	68	JAN 1989	41	NAVTRASYSCEN ORLANDO	NAVAIRSYSCOM	1517	NAS Audit	External	\$ 385,000	APH	NO
88/13	FEB 1980 to JUN 1985	MAR 1986	73	OCT 1989	43	NAVAVONICEN NPS MONTEREY CA	NAVAIRSYSCOM	1517	NAVAIRSYSCOM	External	\$ 2,554,988	NIF, O&M,N, MCON, O&M,DA, R&TEN	NO
88/14	SEP 1982	JAN 1987	52	NOV 1989	35	CA	NO9B	1517	NAS Report	External	\$ 1,049,767	O&M,N	NO
90/01	MAY 1986 & MAY 1991	MAR 1989	34	NOV 1993	56	SFV SUBIC BAY	CINCPACFLT	1517	PAS Employee	Internal	\$ 420,357	O&M,N	NO
90/02	MAY 1988 thru FEB 1989	SEP 1989	16	APR 1992	31	NAVMECOM SWREG	BUMED	1517	NAVMECOM SWREG	Internal	\$ 75,868	O&M,N	NO
90/03	JAN 1989	JAN 1990	12	APR 1991	15	NAVHOSP 29 PAULMS CA	BUMED	1517	Unknown	Internal	\$ 74,866	O&M,N	NO
90/04	SEP 1989	NOV 1989	2	AUG 1990	9	NAVSTA PHILADELPHIA PA	CINCLANTFLT	1517	Unknown	Internal	\$ 93	O&M,N	NO
90/05	1985 & 1986	JUL 1989	48	APR 1993	45	NSC NORFOLK VA	NAVSUPSYSCOM	1517	Audit	External	\$ 7,600,875	O&M,N	NO
90/06	OCT 1984 to APR 1989	OCT 1989	60	UNKNOWN		NAVSUPSYSCOM HO	NAVSUPSYSCOM	1517	DODIG	External	\$ 61,603,233	O&M,N	NO
91/01	SEP 1990	AUG 1990	23	JUL 1991	11	ADPSO	AAUSN	1517	Unknown	Internal	\$ 214,555	O&M,N	NO
91/03	JUN 1990	AUG 1990	2	NOV 1991	15	MCAS DEAFORT SC	MARCORPS	1517	Budget Technician	Internal	\$ 12,306	O&M,MC	NO
91/04	SEP 1989	OCT 1990	13	DEC 1991	14	NCTS SAN DIEGO CA	NCTC	1517	NSC Oakland	Internal	\$ 17,480	O&M,N	NO
91/05	SEP 1987	FEB 1990	29	JAN 1992	23	NAVAL HISTORICAL CTR	NO9B	1517	Unknown	Internal	\$ 48,611	O&M,N	NO
91/06	JAN 1986 thru AUG 1989	MAR 1991	62	NOV 1993	32	CNATRA	CNET	1517	Command Inspection	Internal	\$ 307,519	O&M,N	NO
91/07	SEP 1990	DEC 1990	3	JAN 1994	37	NAVHOSP PHIL PA	BUMED	1517	Unknown	Unknown	\$ 1,010	O&M,N	NO
91/08	OCT 1986 & OCT 1987	AUG 1990	46	DEC 1993	40	FCDBSA DAM NECK VA	CINCLANTFLT	1517	NAS Audit	External	\$ 1,582,316	O&M,N	NO
91/09	OCT 1987	AUG 1990	34	DEC 1993	40	FCDBSA DAM NECK VA	CINCLANTFLT	1517	NAS Report	External	\$ 81,157	O&M,N	NO
92/01	SEP 1989	JAN 1991	16	APR 1992	15	NSC OAKLAND CA	NAVSUPSYSCOM	1517	Unknown	Internal	\$ 1,049,370	O&M,N	NO
92/03	NOV 1989	MAR 1992	28	APR 1993	13	NAVCONBRIG MIRAMAR CA	BUPERS	1517	BUPERS	Internal	\$ 24,641	O&M,N	NO
92/04	SEP 1991	FEB 1992	5	FEB 1994	24	NRC PEARL HARBOR HI	BUPERS	1517	Unknown	External	\$ 125,000	O&M,N	NO
92/05	AUG 1988 thru SEP 1991	DEC 1991	40	NOV 1993	23	NRFC NEW ORLEANS LA	BUPERS	1517	BUPERS	Internal	\$ 750,229	O&M,NR	NO
92/06	UNKNOWN	MAR 1992		FEB 1993	11	NESEC VALLEJO CA	SPAWARSYSCOM	0	Naval Audit	External	\$ -	O&M,N	NO
92/07	MAR 1985 thru SEP 1987	JUL 1989	52	DEC 1993	53	NAVIAIRWARCENTD IV	NAVAIRSYSCOM	1517	Naval Audit	External	\$ 514,381	APN	NO
93/01	SEP 1989	MAR 1992	30	APR 1994	25	COMNAVAVLANT / 2ND MAW	CINCLANTFLT	1517	2nd MAW	Internal	\$ 129,115	O&M,N	NO
93/02	SEP 1990	NOV 1992	26	FEB 1995	27	MK 50 LW TORP PROGRAM	NAVSEASYSKOM	1517	NAVCOMPT	External	\$ 5,622,252	WPN	NO
93/02B	MAR 1991 to JAN 1993	APR 1993	25	JAN 1995	21	USNAVCENT	NO9B	1517	IG Inspection	External	\$ 88,582,708	O&M,N	NO
94/01	SEP 1991	JUL 1992	10	Feb-94	19	NRC JAX FL	BUPERS	1517	Unknown	Internal	\$ 44,000	O&M,N	NO
94/03	1990, 1991, 1992	SEP 1993	36	JUN 1994	9	U.S. NAVY BAND DC	BUPERS	1517	ADP Officer	Inquiry	\$ 30,537	O&M,N	NO
94/04	AUG 1992	JUN 1993	10	JUL 1996	37	STD MISSILE PROGRAM	NAVSEASYSKOM	1517	Comptroller	Internal	\$ 1,729,969	WPN	NO
94/05	SEP 1989, MAR 1990 & MAR 1991	OCT 1993	49	JAN 1997	39	PHOENIX MISSILE PROGRAM	NAVAIRSYSCOM	1517	DuDIG	External	\$ 7,868,000	WPN	NO
94/06	DEC 1992 to JUL 1993	AUG 1993	8	SEP 1994	13	USS OLIVER HAZARD PERRY	CINCLANTFLT	1517	Unknown	Internal	\$ 91,864	O&M,NR	NO
94/07	MAY 1991	JUL 1993	26	FEB 1995	19	SUPSHIP PORTS VA FFG-11	NAVSEASYSKOM	1517	Unknown	Internal	\$ 597,179	O&M,NR	NO
94/08	DEC 1992	AUG 1993	0	MAY 1996	33	SUPSHIP PORTS VA FFG-15	NAVSEASYSKOM	1517	SUPSHIP	Internal	\$ 49,940	O&M,NR	NO
94/09	JUN 1989 to SEP 1991	JUN 1993	40	SEP 1996	39	NAVMECDTR PORTSMOUTH	BUMED	1517	Unknown	Internal	\$ 691,606	O&M,N	NO
94/10	NOV 1992	JUN 1993	7	JUL 1996	37	PHALANX CIWS COMFLEACT	NAVSEASYSKOM	1517	Comptroller	Internal	\$ 1,570,420	WPN	NO
95/01	SEP 1993	JUN 1994	9	AUG 1996	26	YOKOSUKA	CINCPACFLT	1517	COMFLEACT	Internal	\$ 1,900,000	O&M,N	YES
96/01	MAR 1995	APR 1995	1	JUN 1996	14	PSA NEW LONDON CT	CINCLANTFLT	1517	CINCLANTFLT IG	Internal	\$ 82,829	O&M,N	NO
96/02	1992 to 1996	NOV 1995	36	APR 1996	5	SEA/AIR/SPA/PACFLT	BRAC	1517	Comptroller	Internal	\$ 34,591,099	BRAC	NO
96/03	DEC 1994 & SEP 1995	DEC 1995	12	Oct-96	10	NCTAMS WESPAC	COMNAVTELCOM	1517	Internal	Internal	\$ 635,061	O&M,N	NO
96/04	1994	OCT 1995	12	UNKNOWN		NAVIAIRSYSCOM HO LAN	NAVAIRSYSCOM	1341	DODIG Audit	External	\$ -	O&M,N	NO
96/05	DEC 1995	JAN 1996	1	OCT 1996	9	DOX INPO	AAUSN	1517	DON INPO/MQ	Internal	\$ 4,398,802	O&M,N	NO
96/06	No Violation	UNKNOWN		UNKNOWN		NAVCOMPT DRBF	DON	1341	Naval Audit	External	\$ -	No Violation	NO
96/07	UNKNOWN	UNKNOWN		UNKNOWN		MSC HQ	MSC	1341	Unknown	Unknown	\$ -	No Violation	NO
96/08	1990	AUG 1992	24	Aug-98	1	SSPO	SSPO	1517	FMO	External	\$ 41,672,210	WPN, OPN	NO
97/01	APR 1996	NOV 1996	7	MAY 1998	17	MK 50 LW TORP PROGRAM	NAVSEASYSKOM	1341	Comptroller	Internal	\$ 12,731,015	WPN	NO
97/02	1993	SEP 1996	36	JUN 1998	21	NCTAMS ROTA SPAIN	COMNAVTELCOM	1517	NCTAMS MED	External	\$ 1,100,870	O&M,N	NO
97/03	1st quarter, FY1997	DEC 1996		APR 1997	4	NCB CAMP BUTLER	MARCORPS	0	NarCompt	External	\$ -	No Violation	NO
97/04	SEP 1996	Aug-97	11	SEP 1998	12	FISC NORFOLK DET. WDC	NAVSUPSYSCOM	1341	GAO	External	\$ 2,955,000	O&M,N	NO
97/07	1993	SEP 1996	36	Apr-98	19	NAS KEY WEST	CINCLANTFLT	1517	OPLOC Norfolk	External	\$ 1,204,177	O&M,N	YES

APPENDIX B. VIOLATION DESCRIPTION

Case No	Cause
87/01	A folder mail out machine was purchased and O&M,N funds were used, OPN funds should have been used due to cost of the machine.
87/02	Purchase of two computers should have been made with OPN vice O&M,N. Exceeded the \$5,000 threshold
88/01	Naval Sea Systems Command Logistics Support Eng Act used O&M,N and Naval Stock Funds (NSF) to purchase a computer terminal. Should have used OPN funds.
88/02	Naval Sea Systems Command Logistics Support Eng Act accepted fund document for provisioning and outfitting procedure related to Naval Reserve Force Ships. O&M,N should have been used.
88/03	Trailers were purchased using O&M,N funds to support ship repairs. Trailers expense/investment threshold was violated and OPN funds should be used.
88/04	Unrelated items were purchased for ship repair made with TOB and EOB vice OPN funds for purchases over \$3,000
88/05	Security system purchased with O&M,N when price exceeded \$3,000 threshold and OPN funds should be used
88/06	Lap Tops purchased made on Lease to Ownership basis using O&M,N vice OPN due to costs.
88/07	Xerox leases using O&M,N funds then Memo requested leases be converted to lease-to-ownership and fund review was not completed.
88/08	Photo equipment purchased using O&M,N when funds exceeded \$3,000 limit and OPN funds should have been used.
88/09	Ships charged the SSPN account in June for profits share and FAADCLANT reversed \$650K in erroneous reimbursement transactions and fund manager did not take appropriate corrective action.
88/10	NFC Cleveland paid HUD vouchers in excess of available funds for the Servicemen's Mortgage Insurance Premium program, funded by FH,N&MC.
88/11	Construction projects exceeded \$100K limits for 7 projects over a 7-year period. NIF, SCN, and O&M,N funds vice MILCON/Commissary Store Trust Funds
88/12	Naval Training Systems Center awarded a contract to Grumman for procurement and installation of hardware in an existing facility. Audit revealed that MILCON funding should have been used. MILCON vice APN funds should be used.
88/13	Construction projects exceeded \$100K limit for five projects over a 4-year period. NIF vice O&M,N or MILCON was used.
88/14	Naval Postgraduate School provided computer and data processing support on a reimbursable basis. O&M, DA and RDT&E,N funds were used. When multiple customers use equipment it should be purchased with OPN funds.
90/01	Naval Ship Repair Facility began six projects using Earned Overhead Funds. Aggregate cost exceeded expense/investment threshold, therefore OPN should have been used.
90/02	Hospital used O&M,N funds to purchase hardware/software for a PRISM network, which is a system and should have used OPN.
90/03	Hospital used O&M,N funds to purchase a relocatable facility while repairs were made to the Minor Care Clinic. OPN funds should be used.

Case No	Cause
90/04	Security Dept inspection required training working dogs with live fire. Ammo was purchased using O&M,N when OPN funds should have been used and purchased through Ships Parts Control Center.
90/05	Naval Supply Center incorrectly funded an Inter-service Support Agreement with Military Traffic Mgmt Command. NSC did not have sufficient funds to make corrections to accounting records.
90/06	Audit found that O&M,N appropriations over six fiscal years were illegally augmented through the application of credits which should have been applied to other appropriations as well.
91/01	Automatic Data Processing Selection Office failed to record two valid obligations on the accounting records. Funds were obligated for other purposes.
91/03	Marine Corps Air Station Food Service Office new employee discovered an over obligation of funds during a reconciliation of accounting ledgers.
91/04	Naval Computer and Telecommunications Station did not account for fringe benefits for civilian labor for FY89. The 0920 account could not be closed out and created an over-expenditure of O&M,N funds.
91/05	Computer system was purchased with O&M,N funds when OPN funds should have been used.
91/06	Chief of Naval Air Training Corpus Christi used O&M,N funds to procure an Automated Date Processing System and a forklift when OPN funds should be used.
91/07	Supplemental Care claims were not recorded at time of referral, which caused wrong fiscal year funds to be obligated.
91/08	Fleet Combat Direction System Support used O&M,N funds for a tactical computer program function testing of the ACDS which should be funded with RDT&E,N funds.
91/09	Fleet Combat Direction Systems Support, Dam Neck used FY87 O&M,N funds for a function test of DDG 995. Tests should have been funded with FY87 RDT&E,N since system was not delivered to Navy yet.
92/01	New technician entered 3rd and 4th qtr expenses in 3rd qtr. Found mistake and removed 4th qtr charges causing unmatched funds disbursement.
92/03	Naval Consolidated Brig used O&M,N funds to purchase a LAN system when OPN funds should have been used.
92/04	Naval Alcohol Rehab Center Pearl Harbor used O&M,N funds to purchase LAN system when OPN funds should be used.
92/05	Naval Reserve Personnel Center used O&M,N funds over a four-year period to purchase LAN components when OPN should be used.
92/06	Unused O&M,N funds were being carried forward into next fiscal year. No violation occurred.
92/07	NAWCD Lakehurst NJ used APN funds to obtain staging area services vice O&M,N. Actual expenses should be considered warehousing.
93/01	2nd MAW purchased filing system with O&M,N. Aggregate system exceeded expense threshold and OPN funds should have been used.
93/02	MK-50 torpedo exceeded costs using WPN funds. Error noted in May 90 Defense Acquisition Executive Summary (DAES) report.
93/02B	COMNAVUCENT exceeded available funds during Operations Desert Shield/Desert Storm over a 3-year period.
94/01	NAVALREHCEN Jacksonville obligated funds in excess of their authorization

Case No	Cause
	during phone call with BUPERS personnel vice obtaining written approval.
94/03	O&M,N funds were used to purchase LAN system when OPN funds should have been used.
94/04	WPN appropriation for standard missile, medium range program was suspended in Jul 90. Government cost to Raytheon was 2.2M. When NAVSEA authorized this over target it created an un-funded liability because of insufficient obligation.
94/05	Phoenix missile system funding for FY 87/88 was exceeded with WPN funds. Congressional approval was not obtained for reprogramming and transferability in these accounts.
94/06	O&M,N funds were used to purchase LAN equipment vice OPN fund for automated data processing system.
94/07	USS Clark was in extended drydock during FY90 and O&M,N funds were erroneously used to purchase Government Furnished Material for the EDSRA during FY91. Charges applied to wrong fund and year.
94/08	USS Estocin was in drydock and shaft repairs were completed during FY90. Lag time and source changed with final bill of \$57,730 in Dec 92. Initial obligation was exceeded and not funded.
94/09	O&M,N funds were used to purchase various items when assembled made a complete, or added to, an existing system and therefore OPN funds should be utilized.
94/10	Navy used WPN for modifications to gun and mounts for the Phalanx system and was under obligated for FY 97. Navy did not obtain Congressional approval for additional fund reprogramming.
95/01	COMFLEACT Yokuska de-obligated FY93 O&M,N funds from known liabilities.
96/01	PSA NLON Budget Officer executed O&M,N to annual controls instead of cumulative quarterly allocation limitation as received from funds grantor, CINCLANTFLT.
96/02	BRAC funding is included in the Military Construction Appropriations Act and the \$25K restrictions apply but were not followed by several commands under DON control.
96/03	On two separate occasions funds were exceeded during different qtrs. O&M,N funds were utilized.
96/04	Network LAN was approved in FY94 mid-year review showed LAN costs exceeded \$2M initially funded for total of \$4.5M. Mid-year review noted increase but did not follow up.
96/05	Un-funded requirements utilized O&M,N vice OPN funds for items ordered 13-28 Dec 95 for a LAN/WAN. Entire project budgeted with O&M,N and OPN funds should have been used.
96/06	Potential Violation - Defense Business Operations Funds. Negative cash balance occurred because the DBOF collections were not processed until the following month.
96/07	Potential Violation - MSC used DBOF funds to settle two Equitable Adjustments (REAs) from USS Niagara (AFS 3) overhaul and upgrade.
96/08	Request by SSPO to use expired funds to pay earned incentives for several contracts was submitted. FMO determined an obligation should be recorded for a contingent liability when the event-fixing amount occurs.
97/01	Contracts awarded to Westinghouse for MK-50. WPN funds were utilized. REA settlements required approval, which was not obtained. Thus insufficient funds were available to cover the liabilities.

Case No	Cause
97/02	In order to pay phone bills in a timely manner, NCTAMS Med Detachment issued reimbursable orders to itself pending the receipt of valid reimbursables from customers.
97/03	Camp Butler Food Service Branch had an annual contract for soft drinks. The contract was erroneously obligated during the 1st qtr. A delivery order must be issued before funds are obligated. Once the account was adjusted, no violation occurred.
97/04	Fleet and Industrial Supply Center awarded a contract to Marine Safety International for ship handling training services in 1996 for 1997 liability with O&M,N funds. Created a liability in advance of appropriations.
97/07	Naval Air Station Key West Comptroller during a 3 year period created over obligations in O&M,N accounts. He became ill and relief discovered un-obligated contracts and other discrepancies.

APPENDIX C. ABBREVIATIONS AND ACRONYMS

AAUSN	Assistant Under Secretary Of Navy
BUPERS	Bureau Of Naval Personnel
BUMED	Bureau of Naval Medicine
CINCLANTFLT	Commander in Chief, U.S. Atlantic Fleet
CINCPACFLT	Commander in Chief, U.S. Pacific Fleet
COMNAVTELCOM	Commander, Naval Telecommunications Command
MARCORPS	Marine Corps
NAVAIRSYSCOM	Naval Air Systems Command
NAVSEASYSKOM	Naval Sea Systems command
NAVSUPSYSCOM	Naval Supply Systems Command

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